This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

Stanford University Libraries
3 6105 127 784 044

STANFORD UNIVERSITY LIBRARIES

THE

REPORTS OF THE COMMITTEES

OF THE

SENATE OF THE UNITED STATES

FOR THE

FIRST SESSION, THIRTY-THIRD CONGRESS,

1853—'54.

IN THREE VOLUMES.

Volume 1 .....*No.* 1 *to* 181, *inclusive.*
Volume 2 .....*No.* 183 *to* 194, *inclusive.*
Volume 2, *part* 2.....*No.* 182.

WASHINGTON:
BEVERLEY TUCKER, SENATE PRINTER.
1854.

LIBRARY
OF THE
LELAND STANFORD JUNIOR
UNIVERSITY.

A. 7896.

INDEX

OF

THE REPORTS OF COMMITTEES

FOR

THE FIRST SESSION OF THE THIRTY-THIRD CONGRESS—1853-'54.

Volume 1.....*No.* 1 *to* 181 *inclusive.*
Volume 2.....*No.* 183 *to* 394 *inclusive, except Nos.* 276 *and* 278.
Volume 2, *second part No.* 182.

A.

	Vol.	No.
Abbott, B. E.	1	16
Abbott, George F., son of	1	16
Ackerman, Isaac	1	135
Alabama, depredations committed in by Creek and Seminole Indians, in 1836 and 1837	2	226
Alden, Hiram O. and James Eddy	1	121
Allen, Adolphus	2	348
Allen, William Henry, heirs of	2	268
Amey, Peter	2	299
American Medical Association	2	386
Anderson, Thomas D., heir of	2	187
Anderson, John, legal representatives	2	265
Andrews, Asa	2	254
Angus, Ann W	1	161
Arfwedson, Charles D	2	266
Arfwedson, Charles D.—adverse	2	389
Armstrong, Brig General	1	157
Arnold, John	1	55
Atmospheric Telegraph	2	31

B.

Badger, Lyman	2	192
Baker, Harriet D. P	1	105
Baker, John M., widow and children of	1	105
Baltimore, improvement of the harbor of	2	340
Balestier, Joseph	2	390
Barnitz, Margaret	2	234
Barnes, Francis	1	48
Barrell, George, and others	2	211
Battle, R. D., administrator of Isaac L. Battle	2	210
Batchelder, James, widow of	2	356
Baury, Mary	1	167
Bean, Mark and Richard H	1	158
Beatty, C. C., son and executor of Reading Beatty	2	235
Beaubien, Jean Baptiste	2	185
Beccannan, Jane	2	238
Bell, James, legal representatives of	2	304
Belden and Co., Samuel A	2	388
Bennett, A. G., Brevet Lieutenant Colonel	2	193
Berryman, Otway H	1	108
Biddle, John	1	58
Bishop, George G		

	Vol.	N
Blaney, Mary E. D.	1	
Blue, John, former widow of	1	1
Bonds of the State of Indiana, surrender of	1	
Bowen, Nancy	2	2
Bowman, Isaac	1	1
Boyd, J.	1	
Boyd, John	2	3
Boykin, John	1	1
Boynton, W. and H. (See Calvin B. Seymour)	2	2
Bradford, James H.	2	3
Brigham, Sarah D.	2	2
Bright, Rebecca	2	1
Bronson, John	1	
Browmer, William	1	
Brown, Pamela	1	
Brown, John	1	
Brown, John P.	2	3
Brown, William	2	2
Brownsville—Texas—port of entry	2	2
Brush, Nehemiah, executors of	1	1
Butler, Thomas	1	
Burt, William A.	1	
Burton, Benjamin	2	2

C.

Camp, John G	1	
Campau, D. J., in behalf of Joseph	1	
Carlisle, James M., and Walter S. Cox	2	3
Carlton, Mary	1	1
Carter, David	2	2
Chamberlain, Joshua, heirs of	2	3
Chandler, Margaret	2	2
Chapman, James, administrator	1	
Chapman, Thomas	1	
Chase, Franklin	1	1
Chattahoochee River and Mobile Railroad	1	1
Chew, William W., executrix of	2	3
Childs, Ann Eliza	2	2
Claims against Mexico. Proceedings of the Board of Commissioners on the	2	1
Claffin, George S.	1	1
Clark, William	2	3
Clarke, George	2	3
Clay, John Randolph	2	2
Cobb, James D.	1	
Cochrane, Sally T. B.	1	
Colt, Samuel	2	2
Conner, Henry, alias Wabish-hen-dib, representatives of	2	2
Cook, Isaac, and others	1	1
Cooper, Charles and Co	1	
Common law. Jury trial under	1	
Connor, Thomas	1	
Copley, Margaret	2	2
Corson, Sarah Somers	1	1
Council Bluffs, Iowa. To lay off the town of	1	
Cousin, François	2	2
Cowan, J. Epes	1	1
Cox, Walter S., and James M. Carlisle	2	3
Coxe, Ferdinand	2	3
Crandall, Sarah	2	2
Crapin, Samuel	2	3
Crane, H. A., and F. A. Underwood	2	2
Crane, James M.	1	1
Creek Indians in Alabama. Spoliations by	2	2
Creek Nation of Indians. Claim of the	2	3
Crosby, Catharine	2	1
Crown, Thomas	2	2
Cronchey, Henry	2	2
Cuba. Relations of the United States with	2	3
Culver, Sylvanus	2	1
Cutter, Abraham	2	3

D.

	Vol.	No.
Daggett, Nathan	2	239
Darby, William	2	222
Dardenne, Theresa, widow of Abraham	1	162
Davis, William, legal representatives of	*1	179
Day, Ira	1	98
De Bastrop grants. Maison Rouge and	1	83
Debt of Texas	2	334
De la Croix, Dusuan	1	154
Denio, Frederick	2	315
Dennet, George	2	243
Derbigny, Charles, et al	1	26
Devlin, John	1	97
Dickins, Asbury	1	124
Dickerhoff, Andrew J	1	160
Dickerson, Catherine	2	321
Digest and Index of Patents Expired	2	382
Dix, Miss D. L., and others	1	57
Domercq, Don B. Juan	1	50
Dorr, E. Ritchie	1	106
Douglass, David F	2	367
Drane, Elizabeth R	1	72
Druton, Gabriel	2	329
Duer, William	2	307
Dunning, James	1	22

E.

Eddy, James, and Hiram O. Alden	1	121
Edwards, James, administrator of Edward M. Wanton	1	132
Elwell, Lewis, and others	2	224
Eastland, Thomas B	2	260
Easton, W. C	1	37
Emigrants and passengers in ships arriving in ports of the United States	2	386
Emmons, Uri	2	196
Erie county, Pennsylvania. Citizens of	2	192
Ervin, John	2	274
Erwin, James	2	190
Evans, Charles, and others	2	215
Evans, Eliza M., heir of Anthony Walton White	2	217
Eve, Betsey W., widow of Joseph	2	387
Everly, Michael	1	24

F.

Fagan, John. (See John Phagan..)		
Farnsworth, Nathan, and others	2	363
"Fox and Wisconsin Rivers Improvement Company"	1	148
Felker, George	1	75
Felker, George Godfrey, heirs of	1	75
Fenwick, Martin	2	384
Field, William	2	257
Fitzpatrick, Richard	1	49
Fitzsimmons, George	1	117
Frasier, George	2	393
Freeman, Rebecca	1	28
Frigate "St. Lawrence." Officers and crew of	2	361

G.

General Armstrong, brig	1	157
Georgia and Alabama (Mobile) Railroad	1	110
Gibbons and Kelley	2	291
Gibson, Elizabeth A. W	2	223
Gibson, George W	2	249
Gideon, Joseph	1	4
Gideon, Jacob	1	18

GENERAL BOOKBINDING CO.

	Vol.	N
Gitt, William W	2	3
Glover, Townsend	2	3
Goggin, James M.—S. bill 303	2	1
Glanding, James A	1	1
Graham, Joseph	2	3
Greathouse, Daniel, heirs of	2	1
Green, James F	1	1
Green, William, and others	2	3
Greer, David, heir of	2	2
Gunter, Charles G. His title to certain land	1	

H.

Half-pay to certain widows and orphans	2	2
Hamilton, Mary C	1	
Hamilton, John	1	1
Hamilton, Robert M	2	3
Hampstead, Samuel H	1	
Hand, John H	2	2
Hanson, Michael	2	2
Harris, William	1	1
Harmon, Sarah, formerly widow of Timothy Murray	2	3
Hart, Albert	1	
Hascall, John, and Hiram Moore	1	
Hascall, Phoebe	1	1
Hay, Daniel, and others	2	2
Hays, Adam	1	
Health, promotion of, on board emigrant ships	2	3
Henderson, William H	2	2
Hennessy, Michael	1	1
Hernandez, Manuel	2	1
Hildreth, John T	2	2
Hodges and Lansdale	1	
Hodge, Jr., Andrew	1	1
Holkar, Nancy, widow of John	2	3
Holmans, J. B	2	3
Homer, Charles	2	3
Hotchkiss, Gideon	1	1
Howard, Benjamin C., and William D. Merrick	2	1
Howell, Albert G	1	
Hubbard, Lucretia W	1	1
Hudson, Lemuel	1	1
Humbert, Lewis	2	2
Humphreys, Gad	2	3
Hunt, Abraham, heirs of	1	
Hunt, Ephraim	2	3
Hussey, Obed	2	2
Huston, Almanzen	1	1

I.

Index and Digest of Patents Extended	2	3
Indiana bonds. Surrender of to the State	1	
Indians. Organization of territory for the Cherokee, Muscogee or Creek, Seminole, Choctaw, and Chickasaw nations or tribes of	2	3
Ingram, Seth	2	2
Insane, indigent. Lands for the benefit of	1	
Invalid pensions	1	

J.

Joffries, James, and Jeremiah M. Smith	2	2
Jemison, Robert, and Benjamin Williamson	1	1
Jennings, George, and others	2	
Jennings, William K., and Aphia Jennings	2	
Johannot, William, administrator of	1	
Johnson, Rinaldo, administrator of	1	
Johnson, Ann E., administratrix of	1	

	Vol.	No.
ı, Allen G.	1	45
William Claude	1	142
Jriah	2	317
al in common law cases, to be superceded by referees	1	47

K.

and Nebraska. Territories of—(See S. bill 22, and Rep. 15.)	1	15
Boyd." Owners of the vessel	1	6
y, Jonathan	1	58
lohn W.	2	261
nd Gibbons	2	291
, Amos and John E.	1	165
ɔhn Bozman	1	172
n, Israel	2	361
William B.	2	381
lenry, representative of	2	241
Sophia	2	216
Amos	1	93
.bsalom and William C.	1	141

L.

Adele	2	283
e and Hodges	1	14
, Sarah	2	242
trie, Henry	1	163
, Cornelius H.	2	256
ce, Zachariah	1	54
, L. E. L. A	2	286
, administrator of	2	250
Rhoda	2	221
Henry	2	326
W. D., and E. A. Williams	2	369
George W.	2	373
Silas L.	1	29
verton	2	295
ıan M. and José L	2	209

M.

ey, Frances Ann	1	146
, Helen	1	69
, Æneas	1	69
John	2	247
Rouge and De Bastrop grants	1	83
John	2	259
osiah	2	305
Mary	2	345
corps, officers of the, and navy, who served in Gulf of Mexico	2	267
Railroad Company, Ohio Falls	2	198
d State Agricultural Society	2	262
Richard B.	1	174
illiam B., and others	2	300
ay, Cornelius	1	8
ick, Cyrus H.	1	312
ıs, T. H.	2	343
Richard W., administrator of	1	109
t, Charles G.	2	264
ı, William L.	2	240
ts of New Orleans, as to extension of the port	1	12
Willliam D., and Benjamin C. Howard	2	189
John	1	125
Proceedings of the Board of Commissioners on the claims against..*Part* 2	2	182
war. Widows of officers of—S. 347	2	320
ı, citizens of	1	115
C.	2	314
ıtrick C., *ibid*	2	352

Vol.
Miller, Noah 1
Miller, Hezekiah 1
Miller, William 1
Minnesota Territory. Late governor of 1
Mir, Puig, and Co 2
Mitchell, Joseph 1
Mobile and Chattahoochee Railroad 1
Moylan, General Stephen, heirs of 2
Moore, Hiram, and John Hascall 1
Moore, Ann L 1
Moore, Moren 2
Morell, Maria 1
Morey, Sarah 2
Morrell, Stephen 2
Morgan, Peter M., administrator 1
Morgan, A. G., heirs, &c., of 1
Morgan, John, heirs of 1
Morris, and others, Lewis 2
Moulon, Jacques, legal representatives of 2
Muscogee or Creek nation of Indians 2
Myerle, David 1
Myers, Peter A 1

N.

Napier, Benjamin, and others 1
Navy. Organization of the 2
Navy and Marine corps, officers of, engaged in the Gulf of Mexico 2
Nebraska. Territory of 1
Nevins, William R 1
New Orleans, merchants of, as to extension of the port of 1
Nickel, Daniel 1
Nightingale, Phineas M 2
Nock, Joseph 2
Nourse, Michael 2
Nye, Thomas C 2

O.

Olmstead, Moses 1
Offutt, Denton 2
Officers and crew of frigate "St. Lawrence" 2
Ohio Falls Marine Railroad Company 2
Ottinger, Douglas 2

P.

Pacific Mail Steamship Company. Loss of the steamer San Francisco belonging to. 1
Parke, William C 1
Parker, Peter 2
Parsons, Thomas B 1
Passengers and emigrants arriving in ports of the United States. Protection of the lives of 2
Patents expired. Index of Patentees and Digest of 2
Paulding, Captain Hiram 1
Paymasters' clerks 1
Payson, Henry, assignee of John Randall 2
Pendleton, John S 2
Pendergrast, G. S 1
Penley, Joseph 1
Pensions, invalid 1
Penn, A. G 2
Perry, Horatio J 2
Peters, Thomas. Rebecca P. Stanbury, and others, children of 2
Peters, Osmond 2
Petersburg volunteers 1
Petet, Moses, and Henry Lewis 2
Phagan, John 1

	Vol.	No.
lon. Samuel S. (On his right to his seat in the Senate.)	1	34
herman	2	325
ve Academy	2	287
'eter	1	122
Joseph	1	138
Vilham D	2	347
Morris	2	200
's message, as to relations of the United States with the Island of Cuba	2	394
John R	2	301
Samuel, executors of	1	81
deon	2	282
Leonard	1	116
Leonard—recommitted	2	270
r, and Co	2	362

R.

Alexander, case of	1	131
John, assignee of	2	337
aston T	2	332
rriet O	1	96
John	2	309
illiam	1	71
to be substituted for jury trial, in certain cases	1	47
, Samuel C	1	157
Henry La	1	163
lliam	2	353
n, David, administrator of	1	139
n, John	1	139
n, Ithiel S	2	331
, Thomas S	2	275
William G	1	19
Charles G	1	181
Peleg, and others, heirs of William Henry Allen	2	268
Thomas	2	186
illiam, heirs of, and others	1	82
Mathew	1	130
Benjamin S	1	118
, James	1	156
, Ann	2	345
I. Gold	2	391
enjamin	1	127
enjamin—recommitted	2	248
nne	2	220
lward	2	345
Jane M	2	302
Thomas J	1	123
n, William, representative of	1	88

S.

H. S	2	335
H. S	2	364
cisco steamship. Testimonials for the rescue of persons from the wreck of	1	85
, Joseph, and others	1	115
, Abigail	2	298
Henry	2	374
J. G	2	392
Robert C	2	354
Massachusetts, citizens of	2	305
mmittee in relation to the proceedings of the Board of Commissioners on laims against Mexico	2	182
Proposed change of rule of the, respecting secret proceedings	1	175
Organization of the officers of, and their pay, &c	2	344
tobert, executor of	1	178
, Calvin B	2	227
hn	2	341
ah county, Virginia, citizens of	2	275
, Pelatiah, and others	1	120

Vo

Shly, John..... 2
Simmons, Jeremiah..... 1
Simmons, Seneca G..... 2
Simonds, Priscilla C..... 1
Slacum, William A., legal representatives of..... 1
Slavin, Pamela..... 1
Smith, Elliot, and others..... 2
Smith, J. Wilson..... 1
Smith, Elizabeth C..... 1
Smith, Jacob T..... 1
Smith, Joseph..... 1
Smith, Jeremiah, and James Jeffries..... 2
Smith, Julia L., and others, heirs of William Henry Allen..... 2
Smith, Frances..... 2
Smith, Neal, for heirs of William Turvin..... 2
Snodgrass, Thomas..... 2
Somerville, Dr. William, heirs of..... 1
Southmayd, Horace, and son..... 1
Spain and the island of Cuba..... 2
Stanbury, Rebecca, and others..... 2
Stearns, Charles..... 2
Stearns, Charles..... 2
Stealey, George..... 2
Steele, Robert..... 1
Steptoe, Robert C., and others..... 2
Steuart, Adam D..... 1
Steuben county, New York, citizens of..... 1
Steward, James..... 2
"St. Lawrence," frigate, officers and crew of..... 2
Stockton, F. B..... 1
Stoll, Jacob..... 2
Summers, Elizabeth..... 2
Sumner, Selina C..... 1
Swain, Isaac..... 2
Swan, Caleb..... 1

T.

Taliaferro, Lawrence..... 2
Taliaferro, Lawrence, and Hay T. Taliaferro..... 2
Taylor, Thomas Marsten..... 1
Taylor, Lavinia..... 1
Telegraph, atmospheric..... 2
Texas. Debt of the republic of..... 2
Thomas, John..... 1
Thornton, J. H. F., and others..... 2
Thornton, D. M. F., sureties of..... 2
Torry, Edward, administrator of Joseph..... 1
Torry, Joseph, administrator of..... 1
Turvin, William..... 2
Tyler, John S..... 2

U.

Underwood, F. A., and H. A. Crane, heirs of John Underwood..... 2
Upson, Hiram, and others..... 2
Urriza, Francisco Lope..... 1

V.

Van Brunt, Rulif..... 1
Van Derveer, B. M..... 1
Van Ness, Madalena, widow of Cornelius..... 2
Van Wart, William, children of..... 2
Varn, Isaac..... 1
Vasquez and Collegan, claims for land..... 1
Vincent, Frederic..... 2
Virginia land warrants. Bill in relation to..... 2
Voorhees, Philip F..... 1

W.

	Vol.	No.
ken-dib, alias Henry Conner	2	213
h, John B.	2	355
, Cadwallader	2	194
Robert M	2	372
, Edward M., administrator of	1	132
gton, Jr., Lewis	2	365
gton, Llewellyn	1	173
, Joseph, legal representatives of	1	119
, George	1	32
, Catharine	1	33
John F.	1	150
David P.	1	61
tt, Charlotte S	2	283
Jr., Conrad	1	130
e, Betsey	2	297
Catty	2	236
Jane A	1	134
, Harriet	2	223
s, W. G	1	20
s, E. A., and W. D. Ligon	2	369
s, Hon. Jared W. His right to a seat in the Senate	2	385
son, A. J	1	66
son, Benjamin, and Robert Jemison	1	152
John S.	1	113
r, Daniel; also David and James N.	1	10
in and Fox rivers. Improvement of	1	148
Henry A.	2	345
, James	2	233
ey, James	1	133

Y.

Orson	1	42

REPORTS OF COMMITTEES,

FIRST SESSION, THIRTY-THIRD CONGRESS—1853-'54.

Reports from the Committee on Foreign Relations.

Petition of Harriet D. P. Baker, widow, and the children of John M. Baker.....
Memorial of E. Ritchie Dorr.....
Frances Ann McCauley.....
Richard W. Meade, administrator of—S. bill 215.....
Petition of the legal representatives of William A. Slacum—S. bill 252.....
Francisco Lope Urriza—S. bill 264.....
Memorial of Samuel C. Reid, jr., in behalf of the claimants, in the case of the brig General Armstrong—S. bill 268.....
John Bozman Kerr—S. bill 282.....
Catharine Crosby, one of the heirs of Thomas D. Anderson—S. bill 301
Charles Evans, and others, citizens of Florida, for losses by the United States army, in 1814—S. bill 336.....
Henry Cronchey—S. bill 358.....
Charles D. Arfwedson—S. bill 372.....
Same.....
John Randolph Clay—S. bill 386.....
John S. Tyler—S. bill 387.....
Petition of William Duer—S. bill 401.....
H. S. Sanford—S. bill 430.....
Same.....
Memorial of Robert M. Hamilton.....
Petitions of William K. Jennings and Aphia Jennings, Henry A. Wise, Ann Robinson, Edward Rudd, and Mary Martin—S. bill 442.....
Petition of William D. Porter—S. bill 441.....
William Rich—S. bill 450.....
Memorials of Robert C. Schenck and John S. Pendleton—S. bill 451.....
Petition of John P. Brown—S. bill 454.....
Messrs. Puig, Mir, and Co.—S. bill 465.....
executrix of William W. Chew.....
Memorial of Horatio J. Perry—S. bill 473.....
Petition of Robert M. Walsh—S. bill 474.....
Memorial of George W. Lippett—S. bill 475.....
Henry Savage—S. bill 476.....
J. B. Holmans—S. bill 477.....
Petition of Peter Parker—S. bill 478.....
Joseph Graham—S. bill 479.....
Memorial of Ferdinand Coxe—S. bill 480.....
Petition of Betsey W. Eve—S. bill 490.....
Memorial of Samuel A. Belden and Co.—S. bill 491.....
Charles D. Arfwedson.....
Joseph Balesteir.....
H. Gold Rogers.....
Petition of J. G. Schwarz.....
George Frasier—S. bill 478.....
Message of the President of the United States respecting the relations of the Unite States with Spain in reference to the island of Cuba.....

Reports from the Committee on Finance.

On the bill (S. 10) to provide for the surrender of certain bonds of the State of diana.....
On the memorial of Horace Southmayd and son—S. bill 291.....
Memorial of William D. Merrick and Benjamin C. Howard, special agents of M land—S. bill 305.....
On the subject of the debt of the late republic of Texas—S. bill 96.....

Reports from the Committee on Commerce.

	Vol.	No.
n of the owners of the "Kate Boyd"—S. R. 3	1	6
Noah Miller—S. bill 50	1	7
rial of B. E. Abbott, son of George F. Abbott, late vice consul at Salonica	1	16
n of merchants of New Orleans for extending the said port—S. bill 55	1	12
Francis Barnes	1	48
rial of J. Wilson Smith—S. R. 8	1	67
n of Selina C. Sumner—S. bill 181	1	77
Thomas Butler—S. bill 182	1	78
rial of Douglass Ottinger	2	205
n of George Dennett—S. bill 356	2	243
itions of the legislature of the State of Texas, and petitions of residents of the lley of the Rio Grande, asking that Brownsville be made a port of entry; so, memorial of citizens of Point Isabel, against the adoption of the measure	2	290

Reports from the Committee on Agriculture.

rial of Denton Offutt	2	253
ation of the legal representatives of John Shly—S. bill 367	2	263
rial of the Maryland State Agricultural Society	2	262
n of citizens of Shenandoah county, Virginia, and Thomas S. Ridgeway	2	275
rial of Townsend Glover, and others, praying Congress to purchase a collec-on of artificial fruits	2	308

Reports from the Committee on Military Affairs.

ients in relation to the claim of W. C. Easton	1	37
n of James D. Cobb	1	43
Allen G. Johnson—S. bill 134	1	45
Adam D. Steuart—S. bill 135	1	46
rial of Mrs. Helen Mackay, widow and administratrix of Colonel Æneas Mackay—S. bill 170	1	69
Petersburg volunteers	1	74
Mrs. Elizabeth C. Smith—S. bill 184	1	80
bill (160) for the relief of the heirs and representatives of Colonel A. G. organ	1	84
ients in relation to the claim of Mrs. Sally T. B. Cochrane, widow of Lieut. E. Cochrane—S. bill 189	1	94
bill (105) for the relief of paymasters' clerks who served in Mexico—*adverse.*	1	95
rial of Harriet O. Read—S. bill 206	1	96
Brevet Colonel Benjamin S. Roberts	1	118
Thomas J. Russell—S. bill 229	1	123
n of James Edwards, of the administrator of Edward M. Wanton, and of the ecutors of Nehemiah Brush—S. bill 240	1	132
rial of William Harris—S. bill 248	1	136
n of William Claude Jones—S. bill 250	1	142
rial of Samuel C. Reid, jr.—S. bill 268	1	157
n of the heirs of Brigadier General Richard B. Mason—S. bill 285	1	174
Brevet Lieutenant Colonel A. G. Bennett—S. bill 308	2	193
Lieutenant S. L. Fremont	2	195
rials of Lewis Morris, and others—S. bill 323	2	201
n of Seneca G. Simmons—S. bill 324	2	202
ns of Daniel Hay, and others—S. bill 339	2	218
n of Thomas B. Eastland	2	260
Captain Charles G. Merchant—S. bill 368	2	264
rial of Brevet Brigadier General John B. Walbach—S. bill 453	2	355

Reports from the Committee on Naval Affairs.

n of Thomas Marston Taylor—S. bill 30	1	2
F. B. Stockton—S. bill 31	1	3
Joseph Gideon—S. bill 32	1	4
rial and papers of Captain Hiram Paulding—S. bill 128	1	39
of David Myerle—S. bill 158	1	60
n of Captain Philip F. Voorhees—S. bill 212	1	107
rial of Otway H. Berryman—S. bill 213	1	108
Commander G. S. Pendergrast—S. bill 218	1	112

Vo

Petition of Charles G. Ridgely 1
Claim of John Makin 2
Petition of officers of the navy and marine corps who were attached to the Gulf squadron 2
Peleg Rhoads, Julia L. Smith, and others 2
Organization of the navy—S. bill 376, "To improve the navy." 2
Memorial of William Clark—S. bill 457 2
Petition of the officers and crew of the frigate St. Lawrence 2
Memorial of Lewis Warrington, jr.—S. bill 469 2
Petition of Lieutenants Osmand Peters and George Clarke—S. bill 470 2
Memorial of E. A. Williams and W. D. Ligon 2

Reports from the Committee on Public Lands.

Petition of Joseph Mitchell—S. bill 29 1
Petitions of Jonathan Kearsley and John Biddle—S. bill 156 1
Petition of William A. Burt—S. bill 157 1
On the bill making a grant of public lands for the benefit of the indigent insane, upon the memorial of Miss D. L. Dix, and others—S. bill 44 1
Petition of William Rees 1
On the bill (S. 92) to lay off the town of Council Bluffs, in Iowa 1
On the memorial of the "Fox and Wisconsin Improvement Company" for the improvement of the Fox and Wisconsin rivers—S. bill 259 1
On the bill (S. 205) making a grant of land to the State of Alabama, in alternate sections, to aid in the construction of a railroad from the line of Georgia, on the Chattahoochee river, to the city of Mobile 1
Petition of Mark and Richard H. Bean—S. bill 272 1
Terresa Dardenne—S. bill 277 1
Memorial of Cadwallader Wallace 2

Reports from the Committee on Private Land Claims.

Petition of Albert G. Howell—S. bill 102 1
Charles Derbigny, and others—S. bill 103 1
Senate bill (153) to relinguish the reversionary interest of the United States to a certain reservation and confirming the title of Charles G. Gunter 1
Petition of D. J. Campau in behalf of his father, Joseph Campau—S. bill 167 1
Senate resolution as to relief to the innocent purchasers and settlers on the Maison Rouge and De Bastrop grants—S. bill 187 1
Petition of Joseph Smith—S. bill 216 1
Resolutions of the legislature of Michigan, in relation to claims to lands of Joseph Sansfacon, and others—S. bill 217 1
Petition of John S. Wilson—S. bill 222 1
Bill (S. 199) authorizing a patent to be issued to Peter Poncin 1
Petition of Mathew Rippey, praying that a patent for land may be granted to Conrad Wheat—S. bill 234 1
J. Epes Cowan, for authority to locate on public lands the claims known as the Vasquez and Colligan claims—S. bill 251 1
Senate bill (257) to confirm the claim of Dusuan de la Croix to a tract of land therein described 1
Memorial of Manuel Hernandez—S. bill 296 2
Sylvanus Culver—S. bill 297 2
Petition of Jean Baptiste Beaubien—S. bill 299 2
George Jennings—S. bill 329 2
Juan M. and José L. Luco—S. bill 330 2
Memorial of George Barrell, and others 2
Robert C. Steptoe, and others 2
Petition of François Cousin—S. bill 334 2
Memorial of Sarah D. Brigham 2
Petition of F. A. Underwood and H. A. Crane, heirs of John Underwood 2
Senate bill (263) to confirm the claim of John Ervin to a certain tract of land in the Bastrop grant 2
Senate bill (289) for the relief of Margaret A. Copley 2
Senate bill (237) for the relief of Pine Grove Academy, in Louisiana 2
Senate bill (343) to confirm the claim of William H. Henderson and the heirs of Robert Henderson to land in the Bastrop grant 2
Senate bill (396) for the relief of the legal representatives of Jacques Moulon 2
Petition of Gaston T. Raoul—S. bill 423 2
Memorial of Neal Smith, agent for the heirs of William Turvin—S. bill 439 2

	Vol.	No.
te bill (370) to authorize T. H. McManus to enter by pre-emption certain lands n the Greensburg land district, Louisiana	2	342
te bill (270) for the relief of John Boyd	2	346
te bill (443) for the relief of A. G. Penn	2	349
ion of William W. Gitt	2	383
Martin Fenwick	2	384

Reports from the Committee on Indian Affairs.

he petition of John Phagan—S. bill 127	1	38
iments in relation to the claim of Joseph Watson, deceased—S. bill 224	1	119
estimony taken by the commissioners appointed by the President of the United States to investigate certain charges preferred against Alexander Ramsey, late governor of Minnesota	1	131
orial of Amos and John E. Kendall—S. bill 280	1	165
iments of James Erwin, of Arkansas—S. bill 306	2	190
ion of the legal representatives of Henry Conner, alias Wabish-ken-dib	2	213
te bill (43) to authorize the payment of certain claims for depredations and spoliations during the hostilities with the Creek and Seminole Indians, in 1836 and 1837	2	226
ion of Calvin B. Seymour—S. bill 345	2	227
te resolution respecting the claim of David Carter	2	284
a of Overton Love, a Chickasaw—S. bill 390	2	295
orial of George Stealy	2	313
Muscogee or Creek nation of Indians—S. bill 417	2	323
a of John Shaw—S. bill 437	2	341

Reports from the Committee of Claims.

orial of the heirs of the late Major Caleb Swan—S. bill 33	1	5
ion of Daniel Winslow—S. bill 53	1	10
Priscilla C. Simonds—S. bill 54	1	11
Dr. William Somerville, heirs of—S. bill 56	1	13
Cornelius McCaullay—S. bill 51	1	8
Mary E. D. Blaney—S. bill 52	1	9
ions of the administrator of Rinaldo Johnson and of the admir istratrix of Ann E. Johnson, and the memorial of Hodges and Lansdale—S. bill 61	1	14
ion of Jacob Gideon—S. bill 87	1	18
William G. Ridgely—S. bill 88	1	19
William G. Williams—S. bill 89	1	20
James Dunning—S. bill 91	1	22
Charles Cooper and Co.—S. bill 90	1	21
Silas L. Loomis—S. bill 109	1	29
J. Boyd, assistant marshal—S. bill 86	1	17
ments respecting claim of Richard Fitzpatrick—S. bill 141	1	49
on of Don B. Juan Domercq—S. bill 142	1	50
orial of Zachariah Lawrence—S. bill 148	1	54
on of Isaac Varn—S. bill 152	1	56
A. J. Williamson—S. bill 165	1	66
John Bronson—S. bill 175	1	76
Maria Morell—S. bill 193	1	91
John Devlin—S. bill 208	1	97
Isaac Cook, Pelatiah Shepherd, and Benjamin A. Napier—S. bill 225	1	120
orial of Asbury Dickins—S. bill 230	1	124
on of John Metcalf—S. bill 231	1	125
Absalom Kyle and William C. Kyle	1	141
orial of Franklin Chase	1	145
James M. Crane	1	155
Andrew Hodge, jr.—S. bill 274	1	159
Hezekiah Miller—S. bill 279	1	164
on of Henry La Reintrie—S. bill 278	1	163
Rulif Van Brunt—S. bill 290	1	176
Robert Sewell—S. bill 292	1	178
e bill (H. R. 267) for the relief of the legal representatives of Captain William Davis	1	179
on of William C. Parke	1	180
Michael Nourse—S. bill 311	2	197
orial of Thomas Crown—S. bill 326	2	203
e bill (203) for the relief of Thomas Snodgrass	2	204

Vol.
Memorial of William Darby—S. bill 342 2
Petition of Asa Andrews—S. bill 362 2
legal representatives of Colonel John Anderson—S. bill 369 2
Memorial of Gibbon and Kelly 2
Charles Homer 2
Isaac Swain—S. bill 424 2
legal representatives of Henry Payson, assignee of John Randall 2
Nancy Holkar, widow of John—S. bill 444 2
Petition of Ephraim Hunt—S. bill 460 2
Israel Ketchum—S. bill 464 2
Elliot Smith, William C. Green, and Nathan Farnsworth—S. bill 466 2
Senate bill (408) for the relief of David F. Douglass 2
Petition of Gad Humphreys—S. bill 484 2

Reports from the Committee on Revolutionary Claims.

Petition of the executors of Samuel Prioleau—S. bill 185 1
William Riley's heirs, and others—S. bill 186 1
Abraham Hunt, heirs of 1
Edward Torry, administrator of Joseph 1
William Johannot, administrator of 1
William Russworm, representative of 1
Petitions of John Morgan's heirs 1
Memorial of Eliza M Evans, heir-at-law of Colonel Anthony Walton White—S. bill 337 2
Margaret Barnitz, heir of David Greer 2
William L. Meredith 2
Petition of representative of Henry King—S. bill 353 2
Frederic Vincent, administrator of James Le Caze—S. bill 361 2
Memorial of heirs of General Stephen Moylan—S. bill 375 2
heirs of Joshua Chamberlain—S. bill 398 2
legal representatives of James Bell—S. bill 399 2
A bill to amend the act for the satisfaction of Virginia land warrants—S. bill 371 2
Memorial of Phineas M. Nightingale—S. bill 415 2

Reports from the Committee on the Judiciary.

On the resolution of the Senate of January 4, 1854, to inquire into the right of the Hon. Samuel S. Phelps to hold his seat in the Senate 1
On the resolution of the Senate of December 21, 1853, for referring causes instituted according to the course of common law to referees 1
Memorial of Samuel H. Hampstead—S. bill 146 1
Petition of James Chapman, administrator of Thomas Chapman—S. bill 147 1
Memorial of John G. Camp—S. bill 145 1
Resolution of the Senate "to inquire whether any additional rule or amendment of an existing rule in relation to the proceedings of the Senate in executive session be necessary" 1
Petition of Charles Stearns—*adverse* 2
Memorial of Charles Stearns—*favorable*—S. bill 420 2
William Field 2
Senate bill (317) for the relief of L. E. L. A. Lawson, sole surviving heiress of General Eleazer Ripley, deceased .....
Memorial of James M. Carlisle and Walter S. Cox, and .....
Petition of Madaline Van Ness, widow of Cornelius—S. bill 445 .....
Memorial of J. H. F. Thornton, Lawrence Taliaferro, and Hay T. Taliaferro, sureties of D. M. F. Thornton—S. bill 471 .....
On the resolution of the Senate to inquire into the right of the Hon. Jared W. Williams to hold a seat in the Senate .....

Reports from the Committee on the Post Office and Post Roa

Petition of Ira Day—S. bill 209 .....
Robert Jemison and Benjamin Williamson—S. bill 265 .....
Almazon Huston—S. bill 266 .....
Llewellyn Washington—S. bill 283 .....
Thomas Rhodes—S. bill 300 .....
James M. Goggin—S. bill 303 .....
Thomas C. Nye—S. bill 307 .....

	Vol.	No.
tition of R. D. Battle, administrator of Isaac L. Battle—S. bill 331	2	210
James Jeffries and Jeremiah M. Smith—S. bill 344	2	225
Joseph Nock—S. bill 349	2	232
morial of John W. Kelly—S. bill 365	2	261

Report from the Committee on Roads and Canals.

morial of "the president, directors, and stockholders of the Ohio Falls Marine Railroad Company."	2	198

Reports from the Committee on Pensions.

ition of Mary C. Hamilton—S. bill 100	1	23
Michael Everly—S. bill 101	1	24
Nickel, Daniel	1	27
Rebecca Freeman—S. bill 108	1	28
Moses Olmstead—S. bill 117	1	30
William Browmer	1	31
morial of Catharine Weaver	1	33
Pamela Brown—S. bill 121	1	35
ition of Albert Hart—S. bill 132	1	40
morial of John Brown	1	41
ers relating to claim of Orson Young	1	42
the heirs of George Waugh	1	32
ition of Lavinia Taylor	1	44
David P. Weeks	1	61
Adam Hays	1	62
Elizabeth R. Drane	1	72
George Felker, on behalf of heirs of George Godfrey Felker	1	75
B. M. Van Derveer	1	73
Senate bill (106) to authorize the payment of invalid pensions, in certain cases	1	90
ition of Thomas B. Parsons—S. bill 191	1	92
Amos Knapp—S. bill 192	1	93
morial of Thomas Connor	1	99
ition of Sarah Somers Corson	1	100
Isaac Bowman	1	101
Ann L. Moore	1	103
Michael Hennessy	1	102
Jacob T. Smith	1	104
Mary Carlton—S. bill 223	1	114
Leonard Proctor, children of—recommitted	1	116
George Fitzsimmons	1	117
Jeremiah Simmons	1	126
Joseph Penley	1	126
use bill (178) for the relief of Benjamin Rowe—recommitted; see No. 248	1	127
use bill (181) for the relief John Hamilton	1	128
use bill (192) for the relief of Pamela Slavin, widow of William Slavin, deceased, and formerly the widow of John Blue	1	129
ition of James Wormsley—S. bill 241	1	133
Jane A. Wight	1	134
Phoebe Hascall, widow of Sidney Smith	1	137
Joseph Pomroy	1	138
David Richardson	1	139
James A. Glanding	1	140
citizens of Steuben county, New York, in behalf of increase of pension of Isaac Ackerman	1	135
Peter A. Myers—S. bill 258	1	147
tions of John F. Webb, Robert Steele, and Lucretia W. Hubbard	1	150
tion of Andrew J. Dickerhoff—S. bill 275	1	160
Ann W. Angus—S. bill 276	1	161
John Boykin	1	166
norial of Mary Baury	1	167
ition of William Miller—S. bill 281	1	168
use bill (124) for the relief of Lemuel Hudson	1	169
use bill (126) for the relief of George S. Claffin	1	170
use bill (127) for the relief of James F. Green	1	171
tion of inhabitants of Erie, Pennsylvania, in behalf of increase of pension of Lyman Badger	2	192
Rebecca Bright	2	199

Vol. N

Petition of Morris Powers..... 2 2
Lawrence Taliaferro..... 2 2
Senate bill (18) for the relief of Sophia Kirby—*adverse*..... 2 2
Petition of Sarah Crandall, widow of James Coon—S. bill 340..... 2 2
Anne Royall..... 2 2
Rhoda Lewis..... 2 2
Harriet Wilcon..... 2 2
Elizabeth A. W. Gibson..... 2 2
Lewis Elwell, and others..... 2 2
of the children of William Van Wart—S. bill 346..... 2 2
Ann Eliza Childs—S. bill 347..... 2 2
Seth Ingram..... 2 2
James Worden—S. bill 350..... 2 2
C. C. Beatty, son and executor of Reading Beatty..... 2 2
Hiram Upson, and others, for further pension laws..... 2 2
Jane Beccannan..... 2 2
Nathan Daggett..... 2 2
Nancy Bowen—S. bill 354..... 2 2
Sarah Larabee—S. bill 354..... 2 2
Jacob Stoll—S. bill 357..... 2 2
Catty White..... 2 2
Elizabeth Summers—S. bill 359..... 2 2
John McVey—S. bill 360..... 2 2
House bill (178) for the relief of Benjamin Rowe—recommitted..... 2
House bill (191) for the relief of George W. Gibson..... 2
Petition of Benjamin Burton..... 2
James Steward..... 2
Lewis Humbert..... 2
House bill (129) for the relief of Cornelius H. Latham..... 2
Petition of John T. Hildreth..... 2
Leonard Proctor—recommitted..... 2
William Brown—S. bill 381..... 2
John H. Hand..... 2
Gideon Prior..... 2
Adele Lands..... 2
Charlotte S. Westcott..... 2
Report of the Secretary of the Interior, recommending amendment of act of February 3, 1853, to continue half-pay to certain widows and orphans—S. bill 383. 2
Petition of Margaret Chandler..... 2
Michael Hanson—S. bill 389..... 2
Mrs. Frances Smith—S. bill 392..... 2
Betsey Whipple—S. bill 394..... 2
Abigail Saunders..... 2
Peter Amey—S. bill 395..... 2
William B. May..... 2
John R. Presher..... 2
Rudolph, Jane M..... 2
citizens of Scituate, Massachusetts, in favor of Josiah Mann..... 2
Samuel Crapin..... 2
John Redding..... 2
heirs of Stephen Morrell—S. bill 406..... 2
James H. Bradford..... 2
P. C. Miles—S. bill 447..... 2
Same..... 2
Frederick Denio..... 2
Sarah Harmon, formerly widow of Timothy Murray..... 2
the heirs of Uriah Jones..... 2
Sarah Morey.....
widows of officers of the army who have died in the service since the war with Mexico.....
Mrs. Catharine Dickerson—S. bill 412.....
Sherman Pierce—S. bill 419.....
Gabriel Druton.....
Abraham Cutter—S. bill 421.....
Moren Moore.....
Rebecca P. Stanbury, and others, children of Thomas Peters.....
On a resolution of the Senate as to the expediency of granting a pension to t widow of James Batchelder, killed while sustaining a law of the United Stat

Report from the Committee on the District of Columbia

'etition of William B. Kibbey—S. bill 486.....

Reports from the Committee on Patents and the Patent Office.

	Vol.	No.
On the petition of John Thomas	1	36
memorial of Peter M. Morgan, administrator of John Arnold, and George G. Bishop—S. bill 151	1	55
Hiram Moore and John Hascall—S. bill 162	1	63
Memorial of William R. Nevins—S. bill 171	1	70
Gideon Hotchkiss—S. bill 260	1	149
Application for extension of patent granted to Uri Emmons—S. bill 310	2	196
Petition of Obed Hussey—S. bill 328	2	207
Samuel Colt—S. bill 379	2	279
Cyrus H. McCormick—S. bill 409	2	312
Adolphus Allen	2	348
Index and Digest of Patents (with names of patentees) which have been extended or renewed by acts of Congress	2	382

Reports from the Committee on Territories.

On the bill (S. 22) to organize the Territory of Nebraska—amended to embrace Kansas	1	15
Memorial of Hiram O. Alden and James Eddy—S. bill 60	1	121
On Senate bill (483) to establish and organize the Territories of "Cha-lah-kee," "Muscogee," and "Cha-ta," for the Cherokee, Muscogee or Creek, Seminole, Choctaw, and Chickasaw nations or tribes of Indians	2	379

Report from the Committee to Audit and Control the Contingent Expenses of the Senate.

On the petition of James Robertson	1	156

Reports from Select Committees.

Joint committee of the Senate and House on the form of acknowledgment to the rescuers from death of American citizens from the wreck of the steamship San Francisco—S. R. 9	1	85
Committee of the Senate on the memorials on the files of the Senate in relation to the proceedings of the Board of Commissioners on the claims against Mexico *Part* 2	2	182
Committee on the memorial of Ithiel S. Richardson, upon the subject of his proposed atmospheric telegraph	2	331
Committee on the subject of the pay of the officers of the Senate, prescribing their duties, appointment to, and tenure of office, &c	2	344
Committee on the memorial of the Mayor, City Council, and Board of Trade of the City of Baltimore, for the improvement of the Patapsco and the harbor of Baltimore—S. bill 436	2	340
Committee on the subject of sickness and mortality on board of emigrant ships, (S. bill 489,) for the protection of the lives of passengers on board of emigrant ships arriving in the United States	2	386

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 183.

IN THE SENATE OF THE UNITED STATES.

March 29, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

[To accompany Bill S. 296.]

The Committee on Private Land Claims, to whom was referred the memorial of Manuel Hernandez, praying a tract of land equivalent to one purchased by him, the title to which was confirmed by the commissioners of land claims in Florida, but the land was subsequently sold by the United States to another person, have had the same under consideration, and submit the following report:

It appears that Joseph Hernandez settled upon and cultivated certain lands lying on the bay of Pensacola, and applied, by petition, to the proper authorities of Spain for a grant of the said lands, which were described as being "about three miles distant from the mouth of the Escambia river, lying and situate between the lands of Joseph Noriega and those of the free mulatto named Charles;" that the usual proceedings were had, and the proper decrees were made, under date of 8th October, 1817, for perfecting the grant of 800 arpens of land to the said Joseph Hernandez, but there was no actual survey of the land until after the change of government, in 1821.

It also appears that the said Joseph Hernandez filed his claim before the commissioners appointed to adjust private land claims in the Territory of Florida; and that, on the 29th April, 1824, the said commissioners examined said claim, and, as appears from the endorsement on the back of the original grant from the Spanish government, by the secretary of the commissioners, and as also appears from the affidavit of the said secretary, Joseph E. Coro, the said claim was confirmed by the said commissioners; "but that, by mistake, no record of confirmation was made, and the said claim was not embraced in any of the abstracts of the commissioners' reports."

It also appears that said Joseph Hernandez departed this life, and that Manuel Hernandez was duly appointed his administrator, and as such administrator sold and conveyed the said tract of land to one Pio Millan de la Carrera, as appears from a duly certified copy of the deed, dated 7th August, 1837; that the said Carrera, on the 2d September, 1837, sold and conveyed by deed to the petitioner, Manuel Hernandez, the said lands.

It also appears that after the survey of the lands in the Territory of Florida, by the government of the United States, that one William L. Booth entered the said lands as public lands, and that an action of ejectment was brought against the said Booth, in the circuit court of Escambia county, by the said Manuel Hernandez, and which suit he failed to sustain.

The petitioner now asks the right to locate lands equal, in quantity, to the lands of which he was dispossessed.

The committee believe, from the evidence, that the commissioners did confirm to Joseph Hernandez eight hundred arpens of land, although they made no record of such confirmation; and that as he has been dispossessed of the lands in question, that justice would require that he should be authorized to locate an equal quantity of land, on any of the public lands, within the State of Florida, subject to private entry; they therefore report a bill for that purpose.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 184.

IN THE SENATE OF THE UNITED STATES.

March 29, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

[To accompany Bill S. 297.]

The Committee on Private Land Claims, to whom was referred the memorial of Sylvanus Culver, have had the same under consideration, and submit the following report:

It appears that a land warrant for 100 acres, was issued on the 19th April, 1806, to Samuel Pearson, in trust for himself and the other heirs of John Pearson, deceased, who was a private in the New York continental line, and slain by the enemy; that this warrant has been lost, and was never located or carried into a grant.

The committee are of the opinion from the evidence, that the petitioner, Sylvanus Culver, is now the only surviving heir of the said John Pearson, deceased, and that as a matter of justice a warrant for 100 acres of land should be issued to the heir of the old soldier; they therefore report the accompanying bill, and recommend its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com No. 185.

IN THE SENATE OF THE UNITED STATES.

March 30, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

[To accompany Bill S. 299.]

The Committee on Private Land Claims, to whom was referred the petition of Jean Baptiste Beaubien, of Illinois, praying indemnity for the loss of certain lands at the city of Chicago, have had the same under consideration, and submit the following report:

It appears that Beaubien purchased a house on the southwest fractional quarter of section 10, township 39 north, of range 14 east; that he took possession thereof, and occupied and cultivated a part of said lands, in every year from 1817 to 1836; that, in 1823, certain factory houses, built upon said lands, were sold by order of the Secretary of the Treasury; that one Whiting became the purchaser, who sold the same to the American Fur Company, and the company sold to Beaubien for $500; that Beaubien took possession of the houses, and occupied the same. On the 7th of May, 1831, he made application to the land office at Palestine, under the act of 1830, for a pre-emption to said lands, but the same was rejected; although, upon the same day, a pre-emption was granted to one Kinzie for a part of the said fractional section 10; he also applied, in 1834, to the land office at Danville, for a pre-emption right to said lands, which was again rejected.

In 1835, the President of the United States, by proclamation, directed certain lands in the Chicago land district to be exposed to public sale, among which was included the lands in question. In May, 1835, Beaubien proved his pre-emption before the receiver of the land office at Chicago, and entered the said southwest fractional quarter, section 10, township 39, range 14 east. The receiver granted the pre-emption and permitted the entry, on the ground that the lands in question were within the district and not specially reserved in the proclamation of the President, nor were they marked as reserved upon the map furnished such land office; this entry by Beaubien was afterwards cancelled by the Commissioner of the General Land Office, on the ground that the said lands were reserved for military purposes in the year 1824, and consequently were not subject to private entry.

It also appears that Fort Dearborn was located on the lands in question, and was first occupied by United States troops in 1804, and such occupation continued until the 16th of August, 1812; on the 4th of July,

1816, it was re-occupied by United States troops, and continued so re-occupied until May, 1823, when it was evacuated by order of the War Department, and left in the possession of the Indian agent at Chicago until 1828, when it was again so occupied; and in May, 1831, it was again evacuated until 1832, when it was again re-occupied by troops, and continued so occupied up to the date of the entry by Beaubion.

The land was surveyed by the government in 1821, and in 1824 the Indian agent, then in possession of the fort, suggested to the Secretary of War to have this fractional section 10 reserved for the protection of the property of the Indian agency; and the Commissioner of the General Land Office informed the Secretary of War, on the first of October, 1824, that he had directed that fractional section 10, township 39 north, range 14 east, should be reserved for military purposes.

It further appears that one of the grantees of Beaubien prosecuted a writ of ejectment against an officer of the government, then in possession of Fort Dearborn, and upon an appeal to the supreme court of Illinois he was sustained in his title to said lands; but upon a writ of error to the Supreme Court of the United States, the grantee of Beaubien was evicted of his title, and the title thereto was decided to be in the United States.

The government before the decision of the case in the Supreme Court of the United States had the tract of land in question laid out into town lots, and have realized a large amount of money from the sales thereof.

The committee have no disposition to question the decision of the Supreme Court of the United States, in thus reciting the facts in the case, but they are of opinion that such facts show that Beaubien is justly entiled to some remuneration from the government for his equitable claim to the said lands.

It also appears from a letter from the War Office that old Fort Dearborn was evacuated, as a military post, in December, 1836, and that all the lots in the Fort Dearborn addition to the city of Chicago have been sold or appropriated, except lots 4 and lots X and Y of lot 6, as designated on map B, accompanying the papers herewith, which yet remain unsold and the property of the United States. In answer to the question "are the lots still vacant and unsold wanted for military or other uses by the United States?" the letter says: "Whether these lots (4 and 6) will ever be wanted for military purposes it is difficult for me to say, but I am inclined to think, from the sales which have been made, and from the occupation as represented of other parts of the reservation, that they will not be so wanted."

In view of all the circumstances connected with this case, the strong equities of the petitioner and his present indigent circumstances, superinduced in great measure by the wrongful acts of the agents of this government, in granting a pre-emption and permitting an entry of the lands in question; the decision of the supreme court of Illinois declaring the legal title to be in the petitioner, and the decision of the Supreme Court of the United States reversing that decision and declaring the title to be in the government; the government realizing a large amount of money from the sale of lots, whilst the petitioner was reduced to poverty in trying to maintain what able lawyers believed to be his legal right; the abandonment of Fort Dearborn as a military post a short

e subsequent to the entry by the petitioner; the acknowledgement the right of Kinzie to pre-emption, to a part of the same fractional tion 10, and the same right, although granted by the register and re-ver to the petitioner, was subsequently cancelled by the Commis-ıer of the General Land Office, when the whole fractional section s alike reserved for military purposes; all of which, in the opinion the committee, recommend themselves to the most favorable con-ɜration of Congress, and demand, in the exercise of a sound discre-ı, that relief should be extended to the petitioner, in so far, at least, :o grant him the few small lots yet remaining unsold, and not wanted military or other purposes by the government; the committee have refore reported a bill accordingly, and recommend its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 186.

IN THE SENATE OF THE UNITED STATES.

March 30, 1854.—Submitted and ordered to be printed.

Mr. Adams made the following

REPORT.

[To accompany Bill S. 300.]

The Committee on the Post Office and Post Roads, to whom was referred the petition of Thomas Rhodes, report:

That the claim of the petitioner was presented at the last session of Congress, and a bill for his relief reported. The committee concurring in the views expressed in the previous report, hereto annex the same and report the accompanying bill.

In Senate of the United States.—March 29, 1854.

The Committee on the Post Office and Post Roads, to whom was referred the petition of Thomas Rhodes, submit the following report:

That the committee have examined the claim of the petitioner, and present a statement of the facts on which his claim is founded. During the session of Congress in 1828, a resolution was passed, "authorizing the Postmaster General to cause to be examined the route from Mobile to Pascagoula, and if, in his opinion, it should be the most expedient route to the city of New Orleans, he shall be, and hereby is, vested with full power and authority to adopt that route in lieu of the present one from the city of Mobile to New Orleans." In pursuance of this authority, the Postmaster General, on the first of August, 1828, wrote to the postmasters at New Orleans and Mobile, requesting them to examine said route, and report to him their opinion whether its establishment as a mail route would advance the public conveniences. They were required to ascertain the distance; to examine the quality of the ground; to estimate the probable expense of opening a good road for stages; to ascertain the time that would be saved in conveying the mail between the two cities, and the expense of three weekly trips. An examination of the route was made by the postmasters aforesaid, and a report made and forwarded to the department, before the 6th day of October, 1828, and on that day the Postmaster General acknowledged the receipt of the report, and informed the postmaster at New Orleans

that it was entirely satisfactory, and subsequently informed the postmaster at Mobile that the joint report met his entire approbation. It being understood, either from an advertisement of the department, or from information obtained from the postmaster at Mobile or New Orleans, that the Postmaster General wished to contract for conveying the mail from Mobile to New Orleans, by Pascagoula bay, the petitioner, for himself and Jeremiah Austill, on the 10th of August, 1828, made a proposal in writing, for conveying the mail between the two cities, by way of Pascagoula, three times a week, each way. He offered to transport the mail for fourteen thousand dollars a year, but added that the road from Mobile to Pascagoula must be made by or at the expense of the United States; and then proceeds to say that he would make the road suitable for stages for four thousand dollars, and keep it in repair for four years, the term of the proposed contract.

On the 7th of October, a letter from the department informed the petitioner that his proposal for carrying the mail from Mobile to New Orleans by land and water, at the rate of fourteen thousand dollars per annum, was accepted by the Postmaster General, and requested him to begin with all practicable expedition to convey the mail upon a plan to be designated by the postmasters of Mobile and New Orleans. This acceptance of the proposal of the petitioner said nothing about that part of the proposal relating to opening the road. The petitioner and Austill commenced making the road, and had it completed so as to begin carrying the mail upon it on the 15th of December, 1828, and continued to carry the mail until the last of May, 1829. Failing to carry the mail according to their contract, the Postmaster General, on the 14th of April, 1829, advertised for proposals to let the route again, of which the petitioner was advised, but he continued to convey the mail until the last of May following, being one year and five and a half months that their service continued under this contract, during which the mail failed many times. The department paid them $4,928 98, being $324 89 more than they were entitled to receive, at the rate of compensation stipulated in their contract. Jeremiah Austill failed and left the country, and the responsibilities of the concern were thrown on the petitioner, who made a claim upon the department for the expenditure he had incurred in opening the road to Pascagoula bay, which the Postmaster General declined to pay, alleging that he had no authority to apply the revenues of the Post Office Department to an object of that kind; and informed the petitioner that he must look to Congress for relief. It appears that the road, or some part of it, was used for transporting the mail for some time, and that it has been of considerable public advantage.

The question presented by these facts is, whether, under the circumstances of the case, the petitioner has an equitable claim on the government to be remunerated for the expense he incurred in opening the road. He claims that his proposal for carrying the mail four years for fourteen thousand dollars per annum was connected with a condition, which, from the nature of the case, could not be separated from it—namely, that the United States was to open the road, or agree to pay him four thousand dollars for doing it. The Postmaster General adopted or established the mail route by Pascagoula, and accepted the

al of the petitioner for carrying the mail upon it, without saying
ıg in regard to that part of the proposal of the petitioner which
l to opening the road, although he must have known that the mail
not be conveyed on that route without the road being opened.
ıt the acceptance by the Postmaster General of that part of the
al of the petitioner which related to carrying the mail, which he
could not be performed without the road being first opened,
ize the petitioner to believe that if he constructed the road, he
in some way be paid for it? It appears to the committee that
and that there was an implied or tacit engagement that the
ner was in some way to be remunerated for his expense in open-
e road. It does not appear, from any of the correspondence,
ıe department ever claimed or expected that the contractors
to construct the road at their own expense. Was it just, or
r honest, in the government to accept one part of a proposition
ontract, consisting of two parts, when they knew that the part
ed could not be performed without the other part was also agreed
d, when they had reason to believe that the part accepted would
ve been offered but in connexion with the part which was not
ed? The committee are of opinion that the petitioner has an
ble claim to be reimbursed the money he has expended in
g the road, being three thousand five hundred dollars; but as he
s to have been overpaid for carrying the mail to the amount of
39, they deduct that sum from the amount of the claim, leaving
5 11, and report a bill for paying him that sum from the treasury.

IN THE SENATE OF THE UNITED STATES.

MARCH 30, 1854.—Ordered to be printed.

Mr. CLAYTON made the following

REPORT.

[To accompany Bill S. 301.]

:ommittee on Foreign Relations, to whom was referred the memorial of harine Crosby, as one of the heirs of Thomas D. Anderson, late consul he United States at Tripoli, have had the same under consideration, respectfully report:

ıt concurring fully in the views and conclusions embraced in the on this case, made by the Committee on Foreign Relations on the y-ninth of March, eighteen hundred and fifty-two, this committee the same, and report a bill in accordance therewith.

IN SENATE, MARCH 29, 1852.

:ommittee on Foreign Relations, to whom was referred the petition of 'harine Crosby, as one of the heirs of Thomas D. Anderson, late con- of the United States at Tripoli, have had the same under considera-, and respectfully report:

is alleged in the petition, that said Anderson, whilst in the dis- e of his duties as consul, contracted a disease in the eyes, by ı he was deprived of vision, and in consequence thereof was un- ɔ procure and preserve the vouchers for the contingent expenditures consulate, during the last five or six years that he remained in ; and that, from the want of the usual and proper vouchers, no was given him for such expenditures by the proper accounting 's of the treasury, from the 31st December, in the year 1821, to 7th August, 1827.

ɔm the report of the Fifth Auditor, under date of the 24th Novem- 847, which accompanies the papers, it appears that a claim was red at the treasury, by the representatives of Mr. Anderson, for 'erage allowance, on account of such expenditures, during the l referred to; which on being referred to the Secretary of State, ,ivingston,) he advised the Auditor, by letter of 21st June, 1832, 'the President directs that the representatives of Mr. Anderson have recourse to Congress for the allowance of that part of the gent account unsupported by vouchers."

The committee, for further information, again referred the subject the Secretary of State, with a view to ascertain up to what peri during the consulate of Mr. Anderson, an allowance for contingent penses had been made; and, also, what had been the average ann allowance for such expenditures, made to the predecessors and succ sors of Mr. Anderson in the said consulate; and they subjoin the port of the Fifth Auditor, dated 16th March, 1852, rendered to committee on such reference.

Memorandum of allowances which have been made at the treasury for contingent expenses of the United States consuls at Tripoli, from July 1812, *to September* 30, 1833, *and the annual average sum to each,*

To Richard B. Jones, consul, from July 23, 1812, to June 24, 1820, (nearly eight years)	$5,952
Average per annum	744
To Thomas D. Anderson, consul, from August 17, 1819, to December 31, 1821, (two years, four months, and seventeen days)	2,793
Average per annum	1,197
To Charles D. Coxe, consul, from January 1, 1822, to September 23, 1830, (three years and nearly nine months)	2,800
Average per annum	746
To Charles J. Coxe and Ebenezer J. Ridgeway, who acted as consuls after the death of Charles D. Coxe, until the arrival of Daniel S. McCawley, from October 1, 1830, to May 29, 1832, (one year and nearly eight months,) $79 50 and $415	494
Average per annum	296
To Daniel S. McCawley, consul, from July 1, 1832, to September 30, 1833, (one year and three months)	740
Average per annum	592

TREASURY DEPARTMENT,
Fifth Auditor's Office, March 16, 1852.

It appears from this report that no such allowance was made to Anderson after the 31st December, 1821; that for the two years four months he was in office, up to the 31st December, 1821, the a age annual allowance to him for such expenses was $1,197 per num, but that the allowance to his predecessor and immediate cessor averaged about $745 per annum.

The committee have adopted the last average as that which w seem most likely to be just to the government, and not inequitabl the claimant; and they recommend such allowance for five years, f the 31st December, 1821, to the 31st December, 1826, at which ti as appears from the last-named report of the Auditor, an account c menced with Mr. Anderson's successor; and they report a bill acc ingly.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 188.

IN THE SENATE OF THE UNITED STATES.

April 3, 1854.—Ordered to be printed.

Mr. Rusk made the following

REPORT.

[To accompany Bill S. 303.]

The Committee on the Post Office and Post Roads, to whom was referred the petition of James M. Goggin, have had the same under consideration, and ask leave to report:

That, from the papers submitted, it appears that Mr. Goggin acted as special mail agent for the State of California, from the 1st day of December, 1850, until the 6th day of April, 1853; that he discharged the duties for that State usually assigned to the *contract*, *appointment*, and fiscal bureau in the Post Office Department; that he necessarily rented an office and had to employ a clerk; and that his travelling expenses greatly exceeded his per diem allowance; that he was induced, by the Postmaster General, to continue in office, under the promise that the Postmaster General would ask Congress to make him a fair allowance, which the Postmaster General several times endeavored to do. Under such circumstances your committee, regarding the claim of Mr. Goggin as just and meritorious, report a bill for his relief, and recommend its passage.

IN THE SENATE OF THE UNITED STATES.

APRIL 3, 1854.—Ordered to be printed.

Mr. PEARCE made the following

REPORT.

[To accompany Bill S. 305.]

Committee on Finance, to whom was referred the memorial of William . Merrick and Benjamin C. Howard, special agents of the State of 'aryland, report:

hat the State of Maryland, during the war of 1812, borrowed large ; of money to be applied to the purchase of arms and ammunition, the equipment and pay of the militia called into service for the de- : of the State; that, of the sums thus borrowed, $279,626 54 were itted by the government of the United States to have been expended he use and benefit of the United States, and were subsequently re- to the State of Maryland; that the State paid interest on these ; for a considerable time, and then discharged the debt by a transfer nited States six per cent. stock, at that time held by the State. But ayment was made by the United States to the State of Maryland, :count of the interest on said advances, until Congress passed the of May 13, 1826, which directed the accounting officers of the ury to "liquidate and settle the claim of the State of Maryland for est upon loans on money borrowed and actually expended by her he use and benefit of the United States during the late war with it Britain."

his act prescribed sundry rules for the government of the account- officers, the first of which was to consider the amount of principal ady refunded to Maryland, as evidencing the whole principal of the nces so made by the State. The second rule was that no interest ld be paid by the United States, except where interest had been by the State. The third directed that "where the principal, or part of it, has been paid or refunded by the United States or money ed in the hands of Maryland for that purpose, the interest on the ; so paid or refunded shall cease," &c.

he accounting officers so construed this act as to allow interest to State of Maryland only where such interest had been directly paid he State, and to refuse it where the State had *lost* interest, as by harging the debt by the transfer of an interest-bearing fund.

he injustice of this refusal has since been acknowledged by Con- in the case of the State of Alabama upon the advances made by

her to the United States in the suppression of Creek Indian hostilities, and Congress has, by the act of January 26, 1849, provided for the payment of interest to the State where she had lost interest. This the State of Alabama had done by withdrawing her active capital from her State bank with which she made her advances. The State of Maryland lost interest by transferring to her creditors, in liquidation of the securities which they held, United States six per cent. stock, which the State then held, and on which she was regularly receiving interest.

The mode of computing interest adopted by the accounting officers, also, seems to have been manifestly unjust. The payments of the United States to Maryland were first applied by them to the liquidation of the principal instead of the interest accrued thereon. Whereas, in all transactions between individuals, or between the government as creditor and an individual debtor, the rules of law requires the payments to be first applied to the extinguishment of interest, and whatever remains of the payment, after discharging the interest, is then applied to the reduction of principal. The propriety of such a mode of settlement is so obvious that the committee forbear to make further remark on it, except to say that the Supreme Court of the United States, in 13 Peters' Reports, page 371, prescribe the rule in the very words which the committee use.

They think that the justice of the demand made by the State, and often urged, so clear that they do not hesitate to report a bill directing the re-examination of the account between the United States and Maryland, and requiring the accounting officers of the treasury to allow the State for interest *lost* as well as *paid*, computing it according to the rules prescribed by the Supreme Court, but assuming the amount of principal, as heretofore acknowledged and paid, to be correct.

The committee append the memorial of the State's agents, and report the accompanying bill:

To the Honorable the Senate and House of Representatives of the United States:

The undersigned, specially deputed by the State of Maryland, in her name and behalf, to endeavor to obtain a rehearing and final and equitable adjustment of the claims of the State, for arrears due her upon her advances and expenditures for the use and benefit of the United States, during the war with England, which was declared in 1812, beg leave respectfully to submit, by way of memorial, the following brief statement of the principal facts and reasons upon which the State rests her demands in this regard, which, though continually, have been hitherto unsuccessfully, urged upon the authorities of the federal government.

The State of Maryland, as is shown by documents originally filed by her proper officers in the Treasury Department of the United States, took up on loan, bearing six per cent. interest, for military purposes, which were confessedly those of the United States, during the years 1813 and 1814, the sum of four hundred and thirty-six thousand dollars, ($436,000,) all of which was, and is alleged and believed by the

State to have been proven to have been actually expended for the use and benefit of the United States, in necessary and unavoidable military operations; the Treasury of the United States, as is well known, not then being in a condition to provide the means of meeting those expenditures. Some time after the restoration of peace, reclamations were made of the federal government, by several of the States, for such expenditures. The government of the United States, acknowledging the propriety and justice of these reclamations, directed the accounts for such expenditures by Maryland, as well as other States, to be audited and adjusted at the Treasury Department, and the amounts found to be due to be paid to them respectively. In the progress of this audit and adjustment of the accounts for expenditures by Maryland, the accounting officer of the Treasury of the United States having the subject in charge, by an extreme rigidity of the rules of evidence by which he chose to be governed, and which, it is well believed, would not now be adhered to were that part of the case to be brought under consideration, as it is not, refused to allow but little more than one half of what appears to the undersigned, and the documents show, to have been the true amount expended for such military purposes by the State, and therefore justly due and payable to her. Here was inflicted upon the State of Maryland, which had bled at every pore during that war, as she had before done in the war of independence, the first great wrong in the conduct of this business; and she was allowed only in the account, as audited at the Treasury of the United States, two hundred and seventy-nine thousand six hundred and twenty-six dollars and fifty-four cents, ($279,626 54,) instead of the whole sum of four hundred and thirty-six thousand dollars, ($436,000,) generously and patriotically borrowed and actually expended by her for the use and benefit of the United States, in the times of their distress and difficulty.

In this award the State of Maryland, though she felt and still feels it to have been unjust, stinted, and tardy, reluctantly acquiesced; smothering her sense of the partial injustice under the noble sentiments of devotion to the common weal, and it is not now the wish of the State, nor the purpose of the undersigned again to open up the questions then disposed of, nor to withdraw nor qualify in any manner that acquiescence. The facts are merely recited here, as a material part of the history of the transaction, and a necessary prelude to the concise statement and clear understanding of the subsequent and existing claim of the State, and the provisions of the law of Congress, passed on the 13th of May, 1826, for their settlement. The sum due to the State for loans obtained and expended by the State for the military purposes of the United States being thus *fixed* by the admission and declared judgment of the one party, and the acquiescence of the other, at the sum of two hundred and seventy-nine thousand six hundred and twenty-six dollars and fifty-four cents, ($279,626 54.) The question next arose as to the reimbursement of the State for the interest paid and payable by her on the reduced amount of said loans, so ascertained and admitted to have been for the use and benefit of the United States. This was refused! The United States had been unable to borrow for themselves to provide the necessary means for the common defence, except at ruinous rates, and even at such rates, only to a limited extent. The

State of Maryland had come forward, used her credit, then very high, and negotiated loans for them on fair terms, without premium, and at six per cent. interest, the amount of which loans, to the extent acquiesced in, and their application to the use and benefit of the United States, had been ascertained and admitted by the United States; and yet they sternly and pertinaciously refused, through their ministerial functionaries, to reimburse the State for the whole or any part of the interest paid by her on these loans and expenditures! No want of proof; no want of sufficient identification of the loans, was or could be set up as an excuse for the refusal to pay this interest, for each particular loan taken up by the State for these purposes, and the terms on which made, had been before shown, and was well known and admitted at the Treasury of the United States.

On what principle of right, justice, or equity, the reimbursement of interest on these loans to the extent ascertained and admitted by the United States, as before stated, was withheld, it is difficult, if not impossible to discover; nor is it material now to inquire, suffice it to say, this became and continued to be, for several years a subject of warm, even sometimes heated, discussion between the agents of the two governments; till at length the Congress of the United States passed a law, on the 13th of May, 1826, directing the claims of the State of Maryland "for interest upon loans on moneys borrowed, and actually expended by her, for the use and benefit of the United States during the late war with Great Britain," to be audited and settled at the Treasury Department; and directing the amount before ascertained at the treasury, as above stated, to be regarded as the true amount of principal due, and the State to be allowed interest on all of that sum on which she had paid interest, and that interest should run until the principal, or some part of it, should appear to be or have been paid to the State, and then at the time of such payment to cease on such parts of the principal as was or might be extinguished by such payments. This law, had its provisions been rightly understood, and carried out, according to the manifest intentions of Congress, and the well known and universally received principles and rules of jurisprudence governing such cases, would have been entirely satisfactory to the State of Maryland, and her claim would have been finally settled under it long since, by the payment to her of that modicum of her just demands which had been admitted to be due, and was here, by the legislative mandate, directed to be paid to her with the interest upon it. But, unhappily for the interest of the State and the honor and justice of the United States, the accounting officer of this government, the then Third Auditor of the Treasury, who was charged with the audit and adjustment of the amounts under this law, a man confessedly of high integrity, but with a mind ever astute to find objections to the payment of money by the government, and who appears in this instance, from long habits of contestation with claimants upon the national treasury, to have had his intelligence swerved into the performance of the duties of a feed attorney of one side, rather than exercised in the higher and more appropriate functions of an enlightened and impartial judge, threw new difficulties in the way, by what appeared to the State of Maryland, as it appears to the undersigned, and will doubtless appear

y clear and candid mind, making itself acquainted with the case,
been a most forced and palpably erroneous construction of the
Congress of the 13th of May, 1826, just referred to; which
and erroneous construction of the law, pertinaciously adhered
hat officer, prevented at that time, and in spite of all the con-
efforts of Maryland, has prevented to this day any just and
tory adjustment of the demands of the State. This forced
roneous construction of the law of Congress, and consequent
d continued controversy arose, and is as follows:
ppears from the documents in the case, still, it is presumed on
the treasury of the United States, that after the loans taken up
e mentioned by the State of Maryland on interest, and for the
d benefit of the United States, had been outstanding for
years, namely: from the years 1813 and 1814, when they were
ted, up to year 1817, the State deemed it expedient, and did,
pay off her creditors by a transfer to them of an equal amount
invested and interest-bearing capital, which had been before re-
by the State, and the accruing interest thereon applied to the
demands upon her treasury, the interest upon these loans among
t. This circumstance was seized upon by the auditor, and
d, in the face of the explicit provisions of the law of Congress,
cient ground for exonerating the United States from the payment
est upon their debt to the State of Maryland for any period sub-
o the date of the transfer by the State of Maryland of *her*
bearing capital to her own creditors, as above stated!
such was his final decision, (notwithstanding not one cent had
en paid to Maryland on that account by the United States, at
e of that transfer of her stock,) as announced by him in a letter
gent of the State of Maryland, then charged with the prosecu-
d settlement of the claim of the State. To this decision that
continued to adhere, and by it the account will be found to have
ated on the books of his office, although he was over and over
eferred to the act of Congress above mentioned, and reminded
contained no word nor syllable so limiting the payment of interest
State, that law prohibiting the payment of interest only on any *sum*
ch the State *had not paid interest*, leaving by direct inference in
use of the law, as well as by express provision in its last clause,
rest to run on all sums on which the State *had paid interest*, with-
other limitation than the final payment of the principal, or a
ereof, by the United States. In vain was it that this officer was
ed, that had Congress intended to limit the payment of interest
debt to the time when Maryland should have paid off her debt,
of the time when they should pay their own, they could and
have said so in express terms, had it been possible for them
aft such an absurdity on the statute book. Of as little avail
that the auditor was often reminded, that conceding the require-
of the law of Congress to be as he contended, that interest
be allowed to the State, for no greater period than that during
she continued to pay interest to her own creditors for the co-
debt, yet according to any and all fair, just, and equitable con-
ns of such a provision, (did it exist,) Maryland would still be

entitled to interest, subsequently to the date of the transfer of her *interest-bearing stocks* to her creditors, she, by that transfer, still actually continuing to pay interest on the debt with the accruing interest on that stock, the identical source from which she had drawn the means of paying the interest up to the time of its transfer. In short, the transfer of this *interest-bearing capital* of the State, (which happened to be United States stocks,) to her creditors by Maryland, amounted to nothing more, so far as regarded the payment of interest on the debt, than the substitution of the Secretary of the Treasury of the United States, or his disbursing agent, as the disbursing agent of the State, in place of her own treasurer.

It was impossible then, as it appears to the undersigned impossible now, to perceive how such a transfer of *interest-bearing capital* by the State in payment of *her* debts to *her* creditors, could in any manner affect the obligations of the United States to the State, or be made to relieve the agents of the government from the commands of Congress to pay to the State their acknowledged and assumed debt, with the interest upon all sums on which the State had paid interest. If the State of Maryland had paid off her creditors from the avails of her ordinary revenues, or with surplus capital lying idle in her treasury, the case, throwing out of view the express provisions of the law, would have been different, and there might have been some plausibility in the position assumed by the auditor, though still it would have been untenable under the provisions of the law, the State having actually paid interest upon the *sum*, no matter how *long* nor how *much*. But such was not the fact, the payments were made by the State to her creditors *bona fide*, with *interest-bearing stocks*, not purchased for the occasion, but long held by the State as interest-bearing capital; and, therefore, upon those debts thus paid off, she has continually been, and still is, to all practical intents and purposes, paying interest. To show still more palpably the fallacy, not to say absurdity, of the position we are contesting, let it be supposed that the State of Maryland had not seen fit, as she was under no necessity to do, to tranfer her interest-bearing stocks in 1817 to her creditors in payment of their dues, but had continued to hold the stock, and receiving, as she had done up to that time, the interest upon that stock with one hand, had paid it out for interest on those debts to her creditors with the other, then, according to the argument and decision of the auditor, there could have been no difficulty, and the State would have been allowed interest subsequently, as well as before the 1st of January, 1817, the date of the transfer of the stocks, up to which time interest was awarded by him, and withheld subsequently, for the sole reason expressly assigned by him—that the State then satisfied *her* creditors by that transfer of her stocks to them. Can it be that so strange a position will be adhered to? The undersigned think not.

Again, that the construction of the law of Congress of May 13, 1826, given and acted upon by the Third Auditor, was palpably erroneous, becomes most apparent when we consider the two last clauses (the restraining clauses) of this law together. The one is, "that no interest shall be paid on any *sum* on which she (the State) has not paid interest." The other is, "that when the principal, or any part of it, has

ɜen paid or refunded by the United States, or money placed in the ınds of Maryland for that purpose, the interest on the sum or sums so ıid or refunded shall cease, and not be considered as chargeable to e United States any longer than up to the time of repayment as aforeid."

Now, the first of these clauses *fixes* certainly the sums on which the ıte shall be allowed interest, namely, *such as* she had *paid* interest ɔon, without reference to rate of interest or length of time during hich it had been paid by the State. On these *sums* the law says she ıall be allowed interest—the sum, as to amount, had been before asrtained at the treasury, and the rate of interest paid by the State ıown to have been six per cent. on the whole, the requirements of is clause were then gratified and its function fulfilled. The next ause *fixes*, in equally explicit and emphatic terms, the *time* to which terest shall be allowed, namely, the time "when the principal or any ırt of it shall be paid or refunded by *the United States*, or money laced in the hands of Maryland for that purpose." No money for any ırpose was paid to Maryland by the United States, nor was any laced in her hands for principal or interest before nearly the end of ıe year 1818, and some subsequent payments were made in 1819 and 821. And yet the Third Auditor chose to fix upon a totally different eriod from that plainly designated by the law under which he was cting, and stops the interest, forsooth, on the 1st day of January, 1817, ıe day on which Maryland transferred her interest-bearing capital to er creditors—the day on which she paid her debt—not the day on hich the United States paid their debt to her, for it was nearly two ears afterwards when the United States made their first payment to er, or placed any money in her hands, and then only a very small ım. The law of Congress says interest shall run and be chargeable ɔ the United States, till the principal or some part thereof be refunded r money placed in the hands of Maryland for that purpose by the Inited States. The Third Auditor says and *decides* that interest *shall ot* so run, but shall stop and be allowed only up to the time when laryland satisfied her creditors; to wit, long before the United States aid to Maryland one farthing! If there could be a more unjust and alpably erroneous construction of any law the undersigned are unable o conceive it. The function of this latter clause of the law was plainly ınd simply to *fix* the *time* to which interest should be calculated and llowed, at the *time* when the principal or any part of it should have ɜen paid by the United States, which time was to be ascertained by rithmetical calculation of the interest accrued, and the relation between hat and the amount of any payment, at the time of such payment, and o reduce the amount of principal to bear interest thereafter, by any xcess of such payment above the amount of interest then due, and hus to guard against the possibility of the State claiming interest upon he whole sum originally admitted to be due her, up to the time of the passage of that law, when it might be, as in fact was the case, as will ıppear by such a calculation, that a large part of the principal had been paid in 1819 and 1821, and to this just and proper end its expressions, fairly and impartially interpreted, are sufficiently explicit. The imple fact is, that the law in question contemplated the reimbursement

of the State for both principal and interest expended by her for the use and benefit of the United States, cutting her off with only two hundred and seventy-nine thousand six hundred and seventy-six dollars and fifty-four cents principal, the amount which had been before ascertained and admitted at the treasury to have been borrowed on interest, and expended by her for the use and benefit of the United States, instead of her whole claim, which was, as before stated, four hundred and thirty-six thousand dollars. And such would have been its effect and operation rightly construed and understood, according to fixed, known, and well established legal principles, and judicial decisions regulating the settlement of accounts both in this country and England, and since recognized and fully sanctioned by the Supreme Court of the United States in a case in which the United States were themselves a party. (See 4 Howard's Reports, pages 286, 287, 288, United States of America *vs.* Searcy's executors and securities.) And it is to carry out this righteous purpose, and to obtain for the State of Maryland this small portion of her just dues that the undersigned now, in behalf of the State, appeal from the decision and palpably erroneous construction of the law of Congress by their ministerial officer, to your honorable bodies, and respectfully ask for the passage of a bill directing the re-opening and proper statement of these accounts.

And they are, with profound respect, &c., &c., &c.

WILLIAM D. MERRICK,
BENJAMIN C. HOWARD,
Special agents of the State of Maryland.

REPORT.

[To accompany Bill S. 305.]

mmittee on Finance, to whom was referred the memorial of William Merrick and Benjamin C. Howard, special agents of the State of yland, report:

t the State of Maryland, during the war of 1812, borrowed large f money to be applied to the purchase of arms and ammunition, equipment and pay of the militia called into service for the de- f the State; that, of the sums thus borrowed, $279,626 54 were d by the government of the United States to have been expended use and benefit of the United States, and were subsequently re- the State of Maryland; that the State paid interest on these r a considerable time, and then discharged the debt by a transfer ed States six per cent. stock, at that time held by the State. But ment was made by the United States to the State of Maryland, ount of the interest on said advances, until Congress passed the May 13, 1826, which directed the accounting officers of the ry to "liquidate and settle the claim of the State of Maryland for t upon loans on money borrowed and actually expended by her use and benefit of the United States during the late war with Britain."

act prescribed sundry rules for the government of the account- cers, the first of which was to consider the amount of principal refunded to Maryland, as evidencing the whole principal of the es so made by the State. The second rule was that no interest be paid by the United States, except where interest had been

her to the United States in the suppression of Creek Indian hostilities, and Congress has, by the act of January 26, 1849, provided for the payment of interest to the State where she had lost interest. This the State of Alabama had done by withdrawing her active capital from her State bank with which she made her advances. The State of Maryland lost interest by transferring to her creditors, in liquidation of the securities which they held, United States six per cent. stock, which the State then held, and on which she was regularly receiving interest.

The mode of computing interest adopted by the accounting officers, also, seems to have been manifestly unjust. The payments of the United States to Maryland were first applied by them to the liquidation of the principal instead of the interest accrued thereon. Whereas, in all transactions between individuals, or between the government as creditor and an individual debtor, the rules of law requires the payments to be first applied to the extinguishment of interest, and whatever remains of the payment, after discharging the interest, is then applied to the reduction of principal. The propriety of such a mode of settlement is so obvious that the committee forbear to make further remark on it, except to say that the Supreme Court of the United States, in 13 Peters' Reports, page 371, prescribe the rule in the very words which the committee use.

They think that the justice of the demand made by the State, and often urged, so clear that they do not hesitate to report a bill directing the re-examination of the account between the United States and Maryland, and requiring the accounting officers of the Treasury to allow the State for interest *lost* as well as *paid*, computing it according to the rules prescribed by the Supreme Court, but assuming the amount of principal, as heretofore acknowledged and paid, to be correct.

The committee append the memorial of the State's agents, and report the following bill:

IN THE SENATE OF THE UNITED STATES.

APRIL 3, 1854.—Ordered to be printed.

Mr. BROWN made the following

REPORT.

[To accompany Bill S. 306.]

ɔommittee on Indian Affairs, to whom were referred the public docu-ıts and testimony of James Erwin, of Arkansas, soliciting relief for ıself, and for himself and the heirs and legal representatives of his late ·tner, Daniel Greathouse, now deceased, have had the same under con-·ration, and report:

at the said James Erwin, on the 30th of October, 1834, entered contract with Captain Jacob Brown, of the United States army, ırincipal disbursing agent of the United States for Indian removals to furnish to the United States, at several specified places, a ity of corn, beef, salt, and a number of pack-horses, wagons, teams ɜamsters, for the subsistence and transportation of a large number ɜek Indians, then about to be removed from Georgia and Alabama ·ir new homes, west of Arkansas; and that the said Erwin, in liance with his contract, (a copy of which, with the petition and stimony, is appended to this report,) did provide and have ready, · times and places required, the stipulated quantity of corn and ınd salt, and a number of wagons, teams, &c. &c., to carry out, ɔd faith, his contract with the United States.

ürther appears, that after he, the said Erwin, had so prepared ·lf to comply with his contract, by great exertion, expense, and le, *no Indians came* to consume the corn, beef, and salt, or to give ɔyment to his pack-horses, wagons, teams, and teamsters; and in consequence of this failure on the part of the Indians to emi- he sustained (if not a total) a heavy loss, and asks the United ; to pay him for his losses. He avers that he has had no remu-on of the United States for these losses, on the ground that the d States, under the contract, were not bound to pay for any acci- , or for any other rations than those used; and as the failure of the ıs to emigrate was accidental, and as no rations, "*more or less*," were the United States claim to be irresponsible for the losses of Mr. ı. It is true that there are such covenants in the agreement; f the failure had been but partial, either in the diminution or ex-ɔf emigrating Indians, the committee would not be disposed to ɜre in the matter. But a *total failure*, wholly unexpected by the

United States and by the contractor, resulting in great loss to him, presents a strong case of equity, and is deemed by the committee well worthy of a favorable consideration.

The committee further report, that afterwards, to wit: on the 31st day of December, 1835, about 14 months after entering into his first contract, the aforesaid James Erwin and a certain Daniel Greathouse, now deceased, entered into two contracts with the aforesaid Captain Jacob Brown, of the United States army, and principal disbursing agent for Indian removals west, one of which was to *subsist* the *emigrating Seminole* Indians, and the other was for the *transportation* of said Seminole Indians from a place called "Rock Roe," on White river, in Arkansas, to the country set apart for them west of Arkansas. This contract resembles in its terms the contract for the removal, &c. of the *Creek* Indians, and resulted, as did the contract for the removal of the Creeks, in a total failure, and in great pecuniary losses to the contractors. The committee propose to indemnify the contractors for their losses in this case also. They find a precedent for these cases in the act for the relief of Richard T. Banks, passed in August, 1842; and to that bill, and to the report accompanying it, they refer.

The committee do not consider the government bound to indemnify Messrs Erwin and Greathouse for all the losses sustained by them, but for such only as a prudent man would have sustained under like circumstances in the management of his own affairs. The proof shows that after the failure of the Indians to emigrate and notice to Erwin, and to Erwin and Greathouse, that the United States would not take the provision then on hand, they permitted the corn to rot and go to waste, and the cattle to wander off and become lost. The United States is not responsible for neglect like this. The committee think the true measure of damages should be the difference between the actual cost of delivering the articles at the depots, and the sum that they would have brought if sold at auction or otherwise, as a prudent man would have sold his property under like circumstances. They report a bill in accordance with these views.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 191.

IN THE SENATE OF THE UNITED STATES.

April 3, 1854.—Ordered to be printed.

Mr. Hamlin made the following

REPORT.

[To accompany Bill S. 307.]

The Committee on the Post Office and Post Roads, to whom was referred the petition of Thomas C. Nye, praying indemnity for the violation, by the Post Office Department, of his contract for the transportation of the mails, report:

It appears that, in 1839, Thomas C. Nye was extensively engaged, individually, and in partnership with others, in carrying the United States mails between Utica, Ithaca, Binghampton, De Reuter, Cherry Valley, and also between Albany and Salina, in the State of New York. And, in 1842, he became the sole contractor on these lines, running upwards of *two hundred miles of daily mails*, employing *many hundreds* of horses, and many stage coaches, amounting, in value, to about $50,000.

In this heavy investment, in the United States service, Mr. Nye was perfectly safe, because the law required that, upon the re-letting of the contracts, the new contractors should take, at valuation, all horses, coaches, &c., thereon, as a part of the contract. But, by the act of March 3, 1845, this law was repealed, and the consequence was that, upon re-letting the contracts, during that year, upon which Mr. Nye was engaged, he was underbid, losing all his contracts, and having all his horses, coaches, &c., thrown upon his hands unemployed, to his great injury and loss, of course.

It appears that the law of March 3, 1845, did not take effect until the 1st of July following, and it is shown that the aforesaid contracts were advertised for re-letting, and were re-let under the old law, with its provisions requiring the new contractors to purchase all stock, horses, coaches, &c., on the routes; but, notwithstanding this, Mr. Nye had all his left upon his hands, the new contractors failing to purchase any of them.

Under these circumstances the committee think that Mr. Nye should be remunerated to the amount of at least his actual loss, and, for that purpose, report the accompanying bill for his relief, and recommend its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 192.

IN THE SENATE OF THE UNITED STATES.

April 3, 1854.—Ordered to be printed.

Mr. Clay made the following

REPORT.

The Committee on Pensions, to whom was referred a petition of the inhabitants of the county of Erie, and State of Pennsylvania, praying an increase of the pension of Lyman Badger of said county, have instructed me to report:

That it appears that said Lyman Badger was placed on the pension list, at the rate of eight dollars per month, to commence on the 29th day of June, 1853, the day on which proof of his claim to a pension was completed. The petitioners represent, that the disability, which entitled said Lyman Badger to a pension, was created on the night of the 10th of January, 1814, by exposure while in the line of his duty, and has continued ever since; and they pray that, in consideration of his extreme exposure in the service of his country, severe affliction, constant disability from the night of the 10th of January, 1814, and entire dependance upon a brother of small pecuniary means, he may be paid at the rate of eight dollars per month from that date to the 29th day of June, 1853, when his claim was established by proof.

The committee can discover no reason for making a special exception of Mr. Badger to the general rule fixing the time of completing the evidence of a claim to a pension as the period of its commencement; and to pass a general law, making the date of the injury the period when an invalid pensioner's pay should begin, would be increasing the amount necessary to the discharge of back pay due to that class of pensioners alone far beyond the annual drafts on the treasury for the maintainance of all classes. The committee think it inexpedient to enact any such general law, or to make an invidious exception in favor of a single individual. They therefore instruct me to report that the prayer of the petitioners be rejected.

'ONGRESS, [SENATE.] REP. COM.
Session No. 193.

IN THE SENATE OF THE UNITED STATES.

APRIL 3, 1854.—Ordered to be printed.

Mr. JONES, of Tennessee, made the following

REPORT.

[To accompany Bill S. 308.]

'ommittee on Military Affairs, to whom was referred the petition of vet Lieutenant Colonel A. G. Bennett, a paymaster in the United 'es army, having had the same under consideration, report:

: petitioner prays to be released from his liability to account for l 80 government money lost while in his possession, by the ac-al burning of the steamboat *Volante*, on her trip from Vicksburg :oo City, on the 15th November, 1853.

:ompanying the petition—and made part of this report—is an affi-of Colonel A. G. Bennett, made before the mayor of Yazoo City, .ch he swears, positively, to the amount of money lost by him by ırning of the *Volante*; and J. C. Brown testifies, in the same :r, that he was the captain of the *Volante* at the time; that Col. Bennett and family were passengers on board the Volante, on y she was burnt; and that they lost all their baggage and freight : said burning.

: committee, having carefully examined this case, think it is one :ch relief ought to be granted. It is evident the money was lost ıt any neglect or carelessness of the petitioner, who was carrying 'azoo to pay the army, but by an accident, by which he also lost : personal effects of himself and family; and they therefore report for Colonel Bennett's relief, authorizing the Secretary of War to him credit, in the settlement of his accounts, of so much govern-money as he may prove to have lost.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 194.

IN THE SENATE OF THE UNITED STATES.

April 3, 1854.—Ordered to be printed.

Mr. Stuart made the following

REPORT.

The Committee on Public Lands, to whom was referred the memorial of Cadwallader Wallace, praying compensation for certain Virginia military bounty land warrants, the lands appropriated for satisfying such warrants having been sold by the United States, report,

That it appears by the memorial that the warrants for which compensation is claimed were located in 1839, between Ludlow's and Roberts' line, on the reservation between the rivers Scioto and Little Miami on the northwest side of the river Ohio, laid off for the purpose of satisfying Virginia bounty land warrants. And from the memorial it also appears, that before the memorialist located his warrants, the lands on which he located them had been *sold* and *patented* by the United States; that they had become immensely valuable, "on parts of which many towns and villages were erected, including Bellefontaine, the county seat of Logan."

And the memorialist bases his claim for compensation on the ground that Roberts' line, and not Ludlow's, has been determined by the Supreme Court of the United States, in the cases of Doddridge *vs.* Thompson and others, 9th Wheaton, 469, and Reynolds *vs.* McArthur, 2d Peters, 417, to be the true western boundary line of the said reservation.

Without going into the history of this reservation, and the attempts made by the United States and Virginia to establish the western line thereof, it will be sufficient for the purposes of this case to state, that the true line never was established by the joint action of Virginia and the United States. The several efforts to thus establish it having failed, Congress, by an act approved April 11, 1818, declared Ludlow's line, from the source of the Little Miami river to the Indian boundary line, established by the treaty of Greenville, to be the western boundary of said reservation, &c. The same act *prohibited the location of warrants on lands which had theretofore been patented by the United States.*

Since the passage of the act aforesaid, Congress has passed several others, extending the time for locating Virginia bounty land warrants, but in each one of them will be found *this same prohibition*, and all patents which may be issued for locations on lands already patented are by each of said statutes declared null and void.

Your committee are well satisfied that the true western line of said

reservation is the one denominated Roberts' line; and that any location of Virginia bounty land warrants east of that line, upon lands to which the Indian title was extinguished, and which had not already been patented by the United States would be a valid location, and would entitle the person thus locating to a patent for them. But your committee are also satisfied, that any such location made upon lands already patented by the United States was expressly prohibited by the several acts of Congress above referred to, and if Congress possessed the power to make such prohibitions, then the locations by this memorialist, being by his own showing on lands already patented and "immensely valuable, &c.," were within the prohibition and consequently void.

The efforts successively made by the United States to establish jointly with Virginia the true western boundary, having proved fruitless, Congress, in the opinion of your committe, possessed the power, and it was their duty to enact the necessary laws to quiet and protect the titles of bona fide purchasers of public lands on said reservation. Without this power the United States would be compelled to keep said military reserve out of market an indefinite length of time, to meet the mere whim or caprice of the holders of these Virginia warrants, and thus very materially injure the settlement and growth of the country.

And although the Supreme Court of the United States, in the cases referred to, declare Roberts' line to be the true western boundary line of said reservation, and sustain the locations in those cases, yet your committee think they also decide with equal clearness, that a location made upon lands already patented, after the enactment of the prohibition by Congress, would be void, though one made before the prohibition would not be, on the ground that the prohibitory acts have no retroactive effect.

In the case of Doddridge *vs.* Thompson, above referred to, the court, after stating the history of the case somewhat, and the purpose for which the United States held the lands ceded by Virginia, say: "Congress, therefore, found it necessary to provide for the sale of the territory not included within the reserve; and its laws made for this purpose may control, and have controlled, the original rights of the military claimants, and have established a line between the sources of the Scioto and the Little Miami, different from that for which the plaintiff contends. *Without questioning the power of Congress*, the court will proceed," &c.

And again, in the same case, while speaking of the act of Congress of June 26, 1812, which declares Ludlow's line to be the true boundary of said reserve, the court say: "Had the plaintiff's title been acquired subsequent to the passage of this act, there would be much force in the objection to it, but it was acquired before this act passed, and cannot, we think, be affected by it."

In the case of Reynolds *vs.* McArthur, the court, in considering the aforesaid acts of Congress of 1812 and 1818, after determining that they have no such retroactive effect as to destroy titles acquired before they were passed, say: "That in the state of things which existed in 1812 and 1818, Congress might establish the western boundary of the military reserve, *so as to effect titles thereafter to be acquired, is not questioned.*

ress might fix a reasonable time within which titles should be
ed, *and might annex conditions to the extension of this time.*"
is language of Chief Justice Marshall, your committee think, is
ısive as to the validity of the several laws of Congress which pro-
the location of Virginia bounty-land warrants on lands already
ted, though within the reservation originally made for their satis-
n.
ır committee will further state that, in their opinion, no injustice
e done the memorialist, by adhering to this view of the case, as
by the law of Congress, approved August 31, 1852, authorized to
ıder his said warrants, and receive others which he may locate on
f the public lands of the United States, subject to private entry.
d, in conclusion, your committee report the following resolution
: consideration of the Senate:
olved, That the memorialist in this case, for the reasons stated in
regoing report, is not entitled to the relief prayed for.
ır committee also append a communication from the Commissioner
General Land Office, which they adopt as a part of this report.

—

General Land Office,
February 8, 1854.

: I have the honor to acknowledge the receipt of your communi-
of the 25th ultimo, enclosing, with another document, Senate
, No. 205, 1st session, 32d Congress, on the petition of Cadwal-
Wallace, and in accordance with your request beg leave to sub-
e following views of that subject.
reading that report, one on the same subject from this office, of
)th of March, 1840, and the able argument of Hon. Samuel F.
ı, I was of the opinion that Mr. Wallace was entitled to relief; a
ıgh examination of the subject, however, has satisfied me that
›pinion was erroneous, that Mr. Wallace has neither legal nor
ıble right to the lands claimed by him, and that existing provisions
v will yield him all the relief to which he is entitled.
a full and clear understanding of this case a very brief history
: matter will be given.
e United States in accepting from Virginia the cession of her terri-
ıorthwest of the river Ohio, made under the act of the legislature
ıt commonwealth of October, 1783, did so as a two-fold trust—
"That in case the quantity of good land on the southeast side of
)hio, upon the waters of the Cumberland river, and between the
ı river and Tennessee river, which have been reserved by law for
'irginia tooops upon continental establishment, should, from the
Carolina line bearing in further upon the Cumberland lands than
xpected, prove insufficient for their legal bounties, the deficiency
l be made up to the said troops in good lands, to be laid off be-
ı the rivers Sciota and Little Miami."
ond. "That all the lands within the territory so ceded to the
d States, and not reserved for, or appropriated to, any of the
: mentioned purposes, or disposed of in bounties to the officers

and soldiers of the American army, shall be considered a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance of the said States, Virginia inclusive, according to their usual respective proportions, in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatever."

To enable the United States faithfully to discharge these several trusts, it was necessary that a boundary should be fixed between the military lands and those held for survey and sale.

In May, 1785, Congress passed "an ordinance for ascertaining the mode of granting lands in the western territory," in which, for the purpose of securing to the officers and soldiers of the Virginia line, on continental establishment, the bounties granted them by that State, it is ordained "that no part of the land between the rivers called the Little Miami and Sciota, on the northwest side of the river Ohio, be sold or in any manner alienated until there shall first have been laid off and appropriated for the said officers and soldiers, and persons claiming under them, the lands they are entitled to, agreeably to the said deed of cession, and an act of Congress accepting the same.

In May, 1796, Congress passed an act for the survey and sale of the public lands, directing the appointment of a surveyor general, and the survey of the lands, excluding among others those which had been previously, or might be, during the then session of Congress, appropriated for satisfying military bounties. This exclusion evidently applies to the lands between the Little Miami and Sciota rivers.

In May, 1800, Congress passed an act providing further for the sale of those lands, and established four land offices for the purpose, neither of which comprehended the lands between the Little Miami and Sciota rivers. In the execution of this act, the surveyor general caused a line to be run from the source of the Little Miami towards what he supposed to be the source of the Sciota, designated as Ludlow's line, which he evidently designed as the bounday between the military reserve and the public lands, as he caused the lands west of that line to be surveyed into sections, as required by law.

In March, 1804, Congress passed an act adopting Ludlow's line as the western boundary of the military reserve, provided Virginia, within two years after the passage of that act, should so recognize it. Virginia did not do so, and hence it was not so established.

On the 26th of June, 1812, Congress passed an act authorizing the President to appoint commissioners to act with such commissioners as might be appointed by Virginia, with authority to ascertain, survey, and mark the western boundary of this military reservation according to the true intent and meaning of the condition touching said reservation in the deed of cession, with authority to employ a skillful surveyor, &c., and enacting, in the fourth section: "That until the westwardly boundary line of the said reservation shall finally be established by the agreement and consent of the United States and the State of Virginia, the boundary line designated by an act of Congress, passed on the 23d day of March, 1804, (Ludlow's line,) shall be considered and held as the proper boundary line of the aforesaid reservation."

The commissioners met, appointed Mr. Roberts as the surveyor, who, in accordance with the directions of the United States commissioners, ran a line between the Little Miami and Sciota rivers, known as Roberts' line; but as the commissioners on the part of Virginia refused to recognise it, it could not be established as the boundary, and hence Ludlow's line, under the act, remained the boundary, and has so continued, south of the Greenville treaty line, and so far as this question is concerned, to the present time.

This act, in conjunction with the act of 1804, extended the authority of the surveyor general and the Cincinnati land district to Ludlow's line.

On the 11th April, 1818, Congress passed an act extending the time for locating Virginia military warrants, the third section of which fixes Ludlow's line south of the Greenville treaty line, as the western boundary of the reservation, until otherwise directed by law, and from the Greenville treaty line, north to the source of the Sciota, Robert's line was fixed as the western boundary. The lands north of the Greenville treaty line are not embraced in Mr. Wallace's claim. The same section provides, that no patent shall be granted on any location and survey that has or may be made, west of the aforesaid respective lines.

The second section of this act provides, "that no location aforesaid, in virtue of this or the preceding section of this act, shall be made on tracts of land for which patents had been previously issued, or which had been previously surveyed."

A similar provision was made by the act of March, 1807, but it was referred to in its chronological order, because the Supreme Court did not think it comprehended the lands previously surveyed by the surveyor general. So far as the mere survey of those lands were concerned, and that is the only point touched by the court, I concur in that opinion, but have no doubt it applied to such of those lands as had been surveyed and patented.

So much for the law of the case. Now for the facts.

Mr. Wallace, in January, 1839, attempted to locate his warrants between Ludlow's and Roberts' line, upon lands which had been sold between the years 1802 and 1831, and patented between 1804 and 1833, amounting to upwards of 41,142 acres, in total disregard of the acts of 1812 and 1818, fixing Ludlow's line as the existing boundary of the military reserve, and of the acts of 1807 and 1818, forbidding the location of patented lands; and the cases of Dodridge vs. Thompson and others, 9 Wheaton 469, and John Reynolds tenant, the United States, plaintiff, vs. Duncan McArthur's, defendant, 2 Peters, 417, are cited as authorities for sustaining these attempted locations. The cases are not at all parallel, except that they are all located between Ludlow's, and Roberts' line. In the case of Doddrige vs. Thompson, it is set out that the plaintiff claimed under a military warrant issued to one of the officers of the Virginia line, or continental establishment, and the defendant under a purchase made from the United States, subsequent to the emanation of the plaintiff's title. In deciding this cause the court say (Chief Justice Marshall delivering the opinion) "that had the plaintiff's letter been acquainted subsequent to the passage of

this act (of 1812) there would be much force in the objection to it, but it was acquired before this act passed, and cannot, we think, be affected by it; Congress cannot have intended to annul by a legislative act a title which was valid at the time, and a law which does not express that intention ought not to have that effect given to it by construction."

There is no meaning in those expressions, unless they convey the idea that the plaintiff's title would have been annulled, if it had been acquired subsequent to the act of 1812; and as Mr. Wallace's claim was acquired subsequent to that act, it must be regarded as annulled by it.

In the case of Reynolds *vs.* McArthur, the latter claimed the land under a patent from the United States, bearing date October 12, 1812, founded on entry and survey in 1810, on a warrant granted for services in the Virginia line on continental establishment, during the war of the revolution. Reynolds claimed as assignee of Henry Van Metre, who, in 1805, entered the land in the Cincinnati land office. It reverted to the United States in the year 1813, for non-payment of the purchase money, and during the same year it was entered again by Van Metre, and the certificate of entry assigned by him to Reynolds.

The land having reverted to the United States in this case, under the first sale, that entry was void, and the second entry was not made until after the issue of McArthur's patent.

In both these cases the decision turned, and the argumeuts were based upon the single point, whether the warrants for services in the Virginia line on continental establishment could be located west of Ludlow's line; and in both the opposing claims were junior titles. The court held that they could be so located, prior to the act of 1812, because Roberts' line indicated the lands between the Little Miami and Sciota, set apart in the deed of cession, all of which failing, good lands elsewhere were subject to such location, till restricted by the act of 1812 to the lands east of Ludlow's line. Mr. Wallace's surveys were located subsequent to the act of 1812, west of Ludlow's line, and of course are invalid under that law; the provisions of the act of 1818 would also exclude them, because they were located on lands that had been previously patented.

Mr. Wallace then has no legal claim. He certainly has none in equity, because he knew that the lands located, or attempted to be located by him, had been previously sold and patented by the government. He is then, simply the owner of these Virginia continental warrants, which have not been satisfied, and for which scrip can be issued under the "act of August 31, 1852."

If, on examination, the committee should not agree with me in these opinions, I will, with pleasure, on being advised of the fact, prepare the bill requested by your letter.

The papers in the case are returned.

I have, sir, the honor to be, your very obedient servant,

JOHN WILSON, *Commissioner.*

Hon. C. E. STUART,
United States Senate.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 195.

IN THE SENATE OF THE UNITED STATES.

April 3, 1854.—Ordered to be printed.

Mr. Shields made the following

REPORT.

The Committee on Military Affairs, to whom was referred the petition of Lieutenant S. L. Fremont, praying to be restored to the position formerly held by him in the quartermaster's department, having had the same under consideration, report:

That the petitioner was appointed an assistant quartermaster, with the rank of captain, on the 3d of March, 1847; that, between that date and the 19th of February, 1849, he performed little or no duty, being nearly all the while absent on surgeon's certificate of ill health, and although he was successively ordered to several posts, he always reported himself unable to obey such orders.

On the 15th of February, 1849, the petitioner offered his resignation as assistant quartermaster, with a condition that it should take effect on the first of June, 1849; this resignation was accepted by the Secretary of War, to take effect "immediately," and Lieutenant Fremont was at once informed thereof; and the adjutant general, in his letter of 12th of April, 1849, says: "Your office ceased to exist as soon as your resignation was accepted."

The petitioner claims to be restored to his former rank; first, because in accepting the resignation the condition of it should *also* have been accepted; and, secondly, the resignation, though approved by the Secretary of War, had not the sanction of the President, so far as appears upon the record.

The committee, after carefully examining this case, and all the circumstances attending it, are unanimously of the opinion that the prayer of the petitioner should not be granted.

The resignation of Lieutenant Fremont abolished the office until that time held by him, and the Secretary of War had an undoubted right to accept the resignation in the manner he did, *without* the condition attached; and, if the acceptance of the resignation by the Secretary of War is not the act of the President, then there is nothing done in the department that could be deemed legal.

The committee recommend the adoption of the following:

Resolved, That the prayer of the petitioner be denied.

33d Congress, 1st Session. [SENATE.] Rep. Com No. 196.

IN THE SENATE OF THE UNITED STATES.

April 5, 1854.—Ordered to be printed.

Mr. Chase made the following

REPORT.

[To accompany Bill S. 310.]

The Committee on Patents and the Patent Office, to whom was referred the application for extension of the patent for a planing machine granted to Uri Emmons, report:

The evidence submitted to the committee seems to establish the following case: On the 27th December, 1828, a patent was granted to William Woodworth, for an improved planing machine; on the 25th of April, 1829, a patent was granted to Uri Emmons for a similar machine.

The machines thus patented were, in essential particulars, identical; and a controversy arose between the patentees in respect to priority of invention. The controversy was adjusted by an agreement, dated 28th November, 1829, under which the two patents were, in effect, united, and the territory of the United States divided between the respective patentees and their assigns. This agreement concluded thus: "And the two parties further agree that any improvement in the machinery, or alteration or renewal of either patent, shall accrue to the benefit of the respective parties in interest, and may be applied and used within their respective districts as herein before designated." On the 16th November, 1842, the board of patents, under the act of 1836, decided in favor of the extension of the Woodworth patent for the term of seven years, from the expiration of the original patent, on the 27th December, 1842, and that patent was accordingly extended. In 1845, this patent was further extended, by act of Congress, for an additional term of seven years. This patent was amended by disclaimer and by surrender and reissue; but these amendments are not material to the views taken of the question before them by the committee.

Application was also made to the board of patents in 1842 for an extension of the Emmons patent. The Commissioner of Patents, Mr. Ellsworth, was in favor of the extension; but the majority of the board, Messrs. Webster and Penrose, decided against it. These two gentlemen, afterwards, certified that their decision ought not, under the circumstances, to prejudice the application of Emmons to Congress for an extension of his patent, if it could be established that the particulars in which the Emmons machine differed from the Woodworth machine

were the invention of Emmons, were of public utility, and that he was the original inventor.

The Supreme Court decided that the extension of the Woodworth patent did not accrue to the benefit of Emmons or his assigns, under the contract of 1829.

The evidence before the committee, taken in connexion with the contract of 1829, already referred to, satisfies them that the patent of Emmons ought to be placed on the same footing, as far as lapse of time will permit, with the patent of Woodworth.

The committee adopt the suggestion of Mr. Burke, former commissioner, made in a letter to the chairman of the House Committee on Patents, that, "inasmuch as it appears that the Emmons patent covers the same features claimed by Woodworth, and also other features which would have entitled Emmons to a patent as well as Woodworth, it may be expedient to extend it to December 27, 1856, the day on which Woodworth's patent expires."

The committee concur with Mr. Burke in the opinion that "such an extension will not increase the burthens which have been imposed on the community by the extension of Mr. Woodworth's patent;" on the contrary, in the judgment of the committee, these burdens will rather be diminished by competition which would grow out of the extension of the Emmons patent for the limited term proposed, while substantial justice would be done to all parties. They therefore report a bill.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 197.

IN THE SENATE OF THE UNITED STATES.

April 5, 1854.—Ordered to be printed.

Mr. Wade made the following

REPORT.

[To accompany Bill S. 311.]

The Committee of Claims, to whom was referred the petition of Michael Nourse, report:

It is represented that during the period from 1830 to 1853 the memorialist held the office of chief clerk in the office of the Register of the Treasury, at a salary of $1,700 per annum; that at sundry times he was commissioned by the President to act temporarily as Register of the Treasury, which duty he performed for periods varying from two or three days to several weeks at a time, amounting in all to 624 days, and for which time he claims the difference between his salary as chief clerk, which he received, and the salary attached to the office of register, viz: $3,000 per annum, amounting to $2,222. By the act of 1792, (U. S. Statutes at Large, vol. 1, p. 281,) it is provided, that in case of the sickness or absence of the heads of departments or bureaus, "it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons, at his discretion, to perform the duties of said respective offices" until the absence, &c., shall cease. It will be observed that, although this act authorizes the temporary appointment and employment, it is silent in reference to the amount or manner of compensation. It is not to be presumed to have been the intention of Congress to authorize the President to require the service without intending that proper compensation should be made, and although in this case, the duty was devolved upon a subordinate officer, who was already in the service and pay of the government, he does not appear to have received any compensation for the additional labor and responsibility which were devolved upon him by these appointments of the President.

The committee report the accompanying bill, allowing the petitioner to be paid for the services performed at the same rate allowed to the Register for the like services.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 198.

IN THE SENATE OF THE UNITED STATES.

April 10, 1854.—Ordered to be printed.

Mr. Bright made the following

REPORT.

The Committee on Roads and Canals, to whom was referred the memorial of "the President, directors, and stockholders of the Ohio Falls Marine Railroad Company," have had the same under consideration, and report:

That the memorialists state, that the project they have in view is *an experiment* for transporting large vessels upon the land, upon such a scale of magnitude as has not before been tried in our country; that this work would be the pioneer to all similar undertakings, and they ask a grant of $300,000 from the United States to enable them to make such experiment. They say that they "believe the canal system is behind the spirit of the age, and, except in very peculiar localities, ought not to be adopted." This exception the committee think destructive of their design, as this *is*, in the opinion of the committee, one of the "*peculiar localities*," more suitable to a canal than a railway. The committee agree with the memorialists in their estimate of the relative superior utility of railroads over canals generally, when confined to their appropriate elements and purposes, but they would consider a railway as little suited to the transportation of large vessels on land, as the bed of a canal would be for the transportation of a train of cars on the water, particularly where nature has provided means and facilities so abundant for keeping the vessels in their native element, without the danger of being strained, opened, broken, or destroyed by their own weight, and that of their freight or cargo, by accident, negligence, or other casualty, to which every vessel would be constantly liable in undergoing on every passage through, the indispensable necessity of a double change from water to dry land, and *vice versa*.

The memorialists state, that "the only opponents to the project are those who have hitherto opposed the construction of a canal upon the Indiana side of the river, fearing the improvement would be prejudicial, if not destructive, to their interests." The committee think that such persons, whom the memorialists say belong to Louisville, are greatly mistaken in opposing this project on that ground, as it would, no doubt, have a contrary effect to that apprehended by them, because it would not only not interfere with their interest as identified with the use of the Louisville and Portland canal, but this railway would usurp the position or locality of a canal and other works of

ample dimensions, in a national point of view, on the Indiana s which, above all things, those alleged opponents of this railway pr would most desire to see entirely supplanted; so that there must some mistake in supposing that there are any sincere opposers of railway scheme on the Louisville side of the falls. This experime marine railway proving a failure, as in all probability it would, t would then be nothing on the Indiana side to rival the Louisville Portland canal. The navigation would be left in its present crip state, commerce retarded, and the national interests depressed postponed to the local interests of a comparatively small commu thereby raising, by the action of Congress, two monopolies, one on ei side of the falls, where none whatever should exist.

The committee agree with the memorialists, that "nature has fusely scattered around this immediate neighborhood the elements truly national prosperity;" but they do not agree that the proposed way, of a mile and three quarters in length here, would cause the de opment of these natural advantages; nor can the committee see in w manner "their projected works" are "peculiarly favorable for a d yard, for the construction of a navy, war, and commercial marin nor can the committee discover how "extensive water power" ca found in a *railway*, and made subservient "to the various manu turers of iron, cotton, wool, hemp," &c.

The committee believe that it would be much more safe and ad able to confine such large bodies as the steamboats that navigate Ohio, with their heavy machinery, freights, and passengers, to t native element, than to hoist them in the air and transport them on land, should this even be as feasible in practice as it is alleged to b theory.

The committee, therefore, ask to be discharged from the further c sideration of the said memorial.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 199.

IN THE SENATE OF THE UNITED STATES.

April 11, 1854.—Ordered to be printed.

Mr. Jones, of Iowa, made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Rebecca Bright, beg leave to report:

That the petitioner is the widow of Jacob Bright, an armorer, who was killed at the navy yard in this city by the bursting of a shell. He being an employée of the government, and in no sense to be regarded as in its "military or naval service," the committee can find no reason, founded in law or justice, for pensioning his widow. Her case is precisely that of the widow of a laborer, or mechanic, employed by the day or month upon any public work. They therefore recommend that the prayer of the petitioner be rejected.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 200.

IN THE SENATE OF THE UNITED STATES.

April 11, 1854.—Ordered to be printed.

Mr. Jones, of Iowa, made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Morris Powers, beg leave to report:

That the petition referred to the committee sets forth that the wound which caused the disability was received on the 26th of December, 1845, at Corpus Christi, while passing from the camp of the third brigade to that of the first. The petitioner made application to the Commissioner of Pensions to be placed on the list of invalid pensioners in 1853, and in his declaration, filed in the office of the commissioner, it was alleged that he was wounded at a fandango in 1846. The papers were withdrawn from that office on the 24th of December, 1853, and, it would appear, the declaration so amended as to contradict the statement under which the claim was disallowed by the Commissioner of Pensions, on the ground that he was not in the line of his duty as a soldier at the time the disability was incurred. It appears from this statement of facts that a fraud has been attempted by the petitioner in his application to Congress. The commissioner, in his letter of November 29, 1853, addressed to the agent of petitioner, says that he disallows the claim, because he "cannot see any necessary connection between the place where Morris Powers received the stab (at a fandango) and the public service." Neither can the committee. They therefore recommend that the prayer of the petitioner be denied.

33d Congress, 1st Session. [SENATE.] Rep. Com No. 201.

IN THE SENATE OF THE UNITED STATES.

April 12, 1854.—Ordered to be printed.

Mr. Shields made the following

REPORT.

[To accompany Bill S. 323.]

The Committee on Military Affairs, to whom was referred the memorials of Lewis Morris, and others, praying compensation for military services in the late war with Mexico, having had the same under consideration, report:

That they have carefully examined the documents and papers accompanying these memorials, which show, to the satisfaction of the committee, that during the Mexican war, to wit: on the 29th February, 1847, Colonel William Gates, by his special order, No. 7, directed Major Morris to enroll and organize all the citizens of Tampico, Mexico, into companies of fifty men each, selecting the officers, &c., to be approved of by the commanding officer, &c., &c.; that in obedience to this order, Major Morris did organize four companies, called the "Tampico Volunteers," who served as such about twelve months, for which service they have never been paid.

In the similar cases of the Louisiana troops called out by General Gaines, and of the Texas mounted men called out by Colonel Curtiss, at Camargo, Congress made special appropriations for their payment. The committee, considering the Tampico volunteers equally entitled to compensation for their services, have reported a bill accordingly.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 202.

IN THE SENATE OF THE UNITED STATES.

April 12, 1854.—Ordered to be printed.

Mr. Shields made the following

REPORT.

[To accompany Bill S. 324.]

The Committee on Military Affairs, to whom was referred the petition of Seneca G. Simmons, having had the same under consideration, report:

The petitioner prays to be released from his liability to account for fifteen hundred dollars, government money, stolen from his possession in Mexico, while he was assistant commissary of subsistence, and stationed at Metamoras.

From the report of testimony taken before a military commission, ordered by Colonel Cushing, at Metamoras, on the 13th April, 1847, it appears that Seneca G. Simmons, as assistant commissary of subsistence, had in his possession large sums of money for the use of the United States troops in that vicinity. That for want of an iron chest (for which he had made requisition) he was compelled to keep the public money in a strong wooden box. That on the night of the 11th April, 1847, the room, in which said box and other boxes containing money were kept, was entered by robbers, the lock of the box was broken, and the sum of fifteen hundred dollars abstracted therefrom. The evidence shows conclusively that the robbery did not result from any negligence or carelessness on the part of the petitioner, and the committee are of the opinion that the amount thus lost should be allowed him in the settlement of his accounts, and report a bill accordingly.

ceived from Potter and the contract price, should be the measure of damages upon this point. The committee are satisfied that the bricks made by Crown were as good as any that were obtained and should have been received, and that he should be saved from loss incurred entirely through the fault of the authorized agent of the government. They report a bill in accordance with these views.

IN THE SENATE OF THE UNITED STATES.

April 12, 1854.—Ordered to be printed.

Mr. Clay made the following

REPORT.

[To accompany Bill S. 203.]

The Committee of Claims, to whom was referred Senate bill No. 203, for the relief of Thomas Snodgrass, report:

This bill is identical with that which was reported from the Committee of Indian Affairs, at the 1st session of the 30th Congress, and which passed the Senate, but failed to be finally acted on by the House of Representatives.

The circumstances out of which the claim originates are believed to be correctly stated in the report of the Committee of Indian Affairs, already referred to, and which is hereto annexed as a part of this report.

The bill allows the payment only of the small sum of $230, which the committee believe to be justly due the claimant, and they recommend the passage of the bill.

In Senate.—May 13, 1854.

The Committee on Indian Affairs, to whom was referred the memorial of Thomas Snodgrass, asking reimbursement of certain expenses, have had the same under consideration, and beg leave to report:

That in June, 1838, General Nat. Smith, then in charge of a party of emigrating Cherokees as emigrating agent, under the escort of Captain Drain, United States army, found that the Indians had become restless, dissatisfied, and disposed to desert, and otherwise manifested a spirit of mutiny and insubordination, and a disposition to commit depredations upon the country through which they were passing. Finding the escort of Captain Drain insufficient to restrain them, General Smith engaged the memorialist to raise a company of mounted volunteers, of thirty men, and promised that on condition that Captain Snodgrass would look to the United States for the pay of the men, he, General Smith, would defray the other expenses, and risk the chance of their reimbursement. With this understanding, the company was raised and mustered into service for thirty days, to assist Captain Drain, as

guard from Bellefonte to Waterloo, in the State of Alabama. In default of Smith, who failed to provide funds, Captain Snodgrass, as he alleges, incurred the following expenses:

A team and baggage-wagon, at $5 per day, for thirty days..	$150 00
Forage for team, and other horses.....	260 25
Subsistence for the men.....	186 00
Cash advanced, being $5 to each man, to defray expenses of return home.....	145 00
	741 25

To defray these expenses, Capt. Snodgrass was compelled to obtain the amount of $625 from W. Smith, a brother of the agent, who took the obligation of Captain Snodgrass for this sum, payable when an appropriation should be made by Congress. Memorialist has since been sued upon this obligation, and judgment obtained, 28th November, 1848, for the amount of $1,143 66 and costs, in the district court of the United States for northern Alabama. To obtain relief to the amount of this judgment upon the foregoing state of facts, is the object of the memorialist.

He further states that an appropriation was made to defray the expenses of this company in 1840, but that in disbursing the amount "regard seems to have been had almost exclusively to the pay of the members of said company, and little or nothing was then allowed by the accounting officers for transportation, forage and subsistence."

The basis of the appropriation of $1,126 57, made in 1840, "to defray the expenses of calling into service Captain Snodgrass's company of Alabama volunteers, to serve as a guard in accompanying a party of emigrating Cherokees from Bellefonte to Waterloo, in the State of Alabama," (see act of 1840, 21st July, Private Laws, page 815,) was furnished by the paymaster's department, and fully embraced the allowance of forage, subsistence, clothing, pay, and *per diem* for use of horse, ammunition and arms. In making these disbursements, Captain Snodgrass received the sums due to himself and nineteen others, and John Snodgrass, received for four others, and with Captain Snodgrass, through power of attorney to them, jointly receipted for the amount of $839 79. Of the original appropriation there remains the sum of $137 79, which has been carried to the surplus fund. Of the amount which was thus paid through Captain Snodgrass, $253 50 was allowed for *forage and subsistence;* and as there is no satisfactory proof of the actual amount expended by Captain Snodgrass, the committee adopt this as the basis, which for the whole company would be $298 50, instead of the amount of $446 25 claimed in the memorial, leaving an unpaid balance in his favor of $45, for forage and subsistence. Nothing was estimated or paid under this appropriation for either transportation or return expenses. The first is properly a legitimate charge; the other is unwarranted by any law then in existence, and must be regarded as a general loan or advance of that amount to each soldier, which Captain Snodgrass ought to and probably did retain out of the amount received for those of his company whom he represented. The payment of this amount advanced

to six members of the company whom he did not represent, is unwarranted by just principles, and would establish the obligation of the government to pass by its immediate creditor and adjust equities between him and his creditor. To state the claim in its most favorable aspect, it would stand thus:

Team for transportation of baggage.....	$150 00
Balance due for forage and subsistence.....	45 00
	195 00
Interest for three years, from June, 1838, to June, 1841...	35 00
	230 00

Interest since 1841 should cease, as Captain Snodgrass then knew, and did not either complain of the deficiency or make any application for relief until the last session of Congress. His long silence, indeed, seems to go far to discredit the whole claim. The committee, however, unwilling to deal harshly upon inferences, however well founded, report the accompanying bill.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 205.

IN THE SENATE OF THE UNITED STATES.

April 12, 1854.—Ordered to be printed.

Mr. Hamlin made the following

REPORT.

The Committee on Commerce, to whom was referred the memorial of Douglass Ottinger, asking for compensation for an invention of his for saving life, have considered the same, and report:

That, after an examination of the claim of said Ottinger, the committee are of opinion that the same should not be allowed, for the reasons set forth in a letter from the Secretary of the Treasury, which is adopted as a part of this report.

Treasury Department,
March 27, 1854.

Sir: I have had the honor to receive your letter of the 8th instant, enclosing, at the instance of the Committee on Commerce, the memorial of Douglass Ottinger, praying compensation for an invention of his, as set forth in the memorial, for saving life and property from shipwrecked vessels, and you request my opinion on the said claim.

The occasion on which this invention is alleged to have been made grew out of a clause contained in the act of August 14. 1848, entitled "An act making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same." This clause appropriated "for providing surf-boats, rockets, carronades, and other necessary apparatus for the better preservation of life and property from shipwreck on the coast of New Jersey, between Sandy Hook and Little Egg Harbor, ten thousand dollars; the same to be expended under the supervision of such officer as may be detached for this duty by the Secretary of the Treasury."

The memorialist, being a captain at the time in the revenue cutter service, was detailed for the duty in question. The department had previously solicited the co-operation of the board of underwriters of New York, and that board had appointed a committee, consisting of Walter R. Jones, Alfred Pells, and Alfred O. Ogden, for that purpose. I enclose a copy of the instructions issued to Captain Ottinger on the 18th of October, 1848, and of his report upon the completion of the work, dated the 21st of May, 1849.

The whole amount appropriated was expended, and Captain Ottinger made no mention of the life-car as his invention, nor any claim on the sums appropriated on account of the same.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 207.

IN THE SENATE OF THE UNITED STATES.

April 13, 1854.—Ordered to be printed.

Mr. Fessenden made the following

REPORT.

[To accompany Bill S. 328.]

The Committee on Patents and the Patent Office, to whom was referred the petition of Obed Hussey, for the extension of letters patent granted to him on December 31, 1833, for "a new and useful improvement, being a machine for reaping and cutting all kinds of small grain, hemp and grass," report:

That the application of this petition was referred to the committee of the Senate on Patents and the Patent Office, at the first session of the 30th Congress, by which committee the subject was examined and a report made favorable to the petitioner, accompanied by a bill for his relief. That report was numbered 154, and was made to the Senate May 15, 1848.

After a careful investigation, your committee find the facts in the case to be correctly stated in that report, and fully concur in the conclusion that said Hussey is entitled to relief. Additional evidence has been furnished, showing satisfactorily the highly valuable and important character of his improvement, and the high estimation in which it is held by scientific and practical agriculturalists at home and abroad! It is one of those improvements which confer honor upon the inventor, and place him on the list of public benefactors. Nevertheless your committee are well convinced, that notwithstanding the time which has elapsed since the date of his original patent, Mr. Hussey has not been able to realize any reasonably adequate remuneration for his genius and toil. And although his circumstances have been somewhat improved by a more extended sale of his machines since the year 1848, yet they are not such as to relieve him from the necessity of continued daily labour in his workshop, or to afford any just ground for refusing his application. Nor has this been the fault of the petitioner, lacking, perhaps, that shrewd capacity for money making which is seldom a characteristic of men of genius, yet he is shown to have always been an industrious and pains-taking man, leaving no means untried consistent with his acknowledged integrity and honor, to render his improvement productive of benefit to himself. But he seems to have gained little from his efforts but reputation and the consciousness of having largely benefitted the public.

The committee therefore, regarding the case of Mr. Hussey of the highest merit, unanimously report a bill for the renewal a tension of his patent for seven years.

IN SENATE.—MAY 15, 1848.

The Committee on Patents and the Patent Office, to whom was refer petition of Obed Hussey, report:

That, on the 31st of December, 1833, the petitioner obtained patent for a "new and useful improvement, being a machine fo ing and cutting all kinds of grain." This patent expired Decem 1847. On the 20th day of December, 1847, he applied to the of extension for a renewal and extension of his patent under the July 4, 1836. The board had established a rule, under the opi the Attorney General, that all such applications should be m least *sixty* days before the expiration of the patent, in order t notice required by the act might be given. His application was but eleven days before the expiration of his patent, and, conseq he could not give the notice; and the board refused to act on plication, as appears by the letter of the commissioner to the ch of the committee, dated April 6, 1848, filed with the papers in th Mr. Hussey alleges his entire ignorance of this rule, and of the d or opinion of the Attorney General above stated, as his excuse applying in due season to the board. The act does not, *in te* quire such notice; and, as in other cases heretofore reported like character, the committee doubt not that the petitioner ma been misled by the phraseology of the statute; and they rega a satisfactory excuse for his omission. In this case, it is the m isfactory, as the committee do not entertain the least doubt t Hussey was entitled to, and would have obtained an extensio patent, had he applied in time to give the notice.

The committee are satisfied that the petitioner's invention is value and public utility. The evidence on this point is of t convincing character. It is to be found in the papers of which annexed to this report.

As to the patentee's profits received for his invention, the e is equally satisfactory that, without any fault of his own, the p has not received adequate reward for his invention. Indeed, it he is quite a poor man, and has devoted several years to his in and that it has but recently attracted any extensive public at A contest was recently made before the Patent Office as to hi the true inventor of the machine, but it was decided in his f the full extent that Mr. Hussey claimed, and as the committee doubt, correctly.

The petitioner applies for a renewal and extension of his pa *fourteen* years. The committee regarding his case as one of t meritorious that has been presented at this session, report a bil extension for seven years, on payment of the regular fees at the

Office, and providing for the protection of those who now enjoy the lawful use of the machine, and also that the renewed patent shall have no more force or effect than if it had been granted by the board, under the act of 1836, before the original patent expired.

List of papers filed in the case of Obed Hussey.

1. Petition presented to the Senate February 7, 1848.
2. Original patent specifications and drawings, dated December 31, 1833, "for reaping and cutting all kinds of grain," expired December 31, 1847.
3. Letter of E. Burke to Hon. J. D. Westcott, junior, April 6, 1848.
4. Deposition of Chauncey P. Holcombe, January 28, 1848.
5. Letter from Chauncey P. Holcombe to Hon. J. D. Westcott, January 28, 1848.
6. Affidavit of Thos. F. Foxall, January 31, 1848.
7. O. Hussey to Hon. J. M. Clayton, April 1, 1848.
8. Letter from Thos. D. Warner, Edenton, North Carolina, January 25, 1848, to editor of American Farmer.
9. Affidavit of Obed Hussey, February 1, 1848.
10. Obed Hussey to Hon. John M. Clayton, February 14, 1848.
11. Petition of the Agricultural Society of Newcastle, Delaware, and others, in favor of the extension of his patent.
12. Similar petition from same.
13. Transactions of the Agricultural Society of Delaware, 1846; pages 29, 30.
14. American Farmer for October, 1847; pages 104, 105.
15. Printed advertisements and recommodations by Obed Hussey, 1845.
16. Petition of C. H. McCormick against the extension of the patent.
17. Affidavit of Benjamin D. Chenoworth, Baltimore, April 4, 1848.
18. Affidavit of Robert Sinclair, junior, April 5, 1848.
19. Affidavit of George Everhart, April 5, 1848.
20. Affidavit of George Schroerer, April 5, 1848.
21. Affidavit of Bryan Jackson and John Jones, April 15, 1849.
22. Sworn and duly certified statement and account of Mr. Hussey, showing the inadequacy of the remuneration derived from his invention.
23. Certificate of Mr. Hussey's good character and credibility, by Samuel Sands, editor of the American Farmer, dated April 18, 1848.
24. Certificate of the respectability and credibility of Mr. Hussey, by J. J. Speed, esquire, of Baltimore, April 17, 1848.
25. Certificate to same effect, by William Proctor, esquire, of Baltimore, same date.
26. Sworn statement of Mr. Hussey as to the *original* points claimed by him in his machine, and points that are public and common to all such machines.
27. Plate of, and directions for using Mr. Hussey's machine.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 208.

IN THE SENATE OF THE UNITED STATES.

April 17, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

[To accompany Bill S. 329.]

The Committee on Private Land Claims, to whom was referred the petition of George Jennings and others, have had the same under consideration, and submit the following report:

The committee find that a favorable report was made upon the said petition, on the 29th January, 1852, by Mr. Downs, then chairman of this committee, which is adopted and made a part of this report.

The committee, therefore, report the accompanying bill, and recommend its passage.

In Senate.—January 29, 1852.

The Committee on Private Land Claims, to whom was referred the petition of George Jennings and others, report:

The petitioner represents that T. D. Jennings would be entitled to a pre-emption on the land on which his father resided at the time of his death, but for the fact, that after his death the family were compelled, by their extreme poverty, to remove from the land. The committee think that this circumstance ought not, under the circumstances, to deprive the son of his right, and therefore report a bill in his favor, and recommend its passage. The bill allows the entry of any quantity less than one hundred and sixty acres, because it is represented that he might not have the means of entering the whole.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 209.

IN THE SENATE OF THE UNITED STATES.

April 17, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

[To accompany Bill S. 330.]

The Committee on Private Land Claims, to which was referred the petition of Juan M. and José L. Luco for permission to file their title to a certain tract of land in the State of California, before the "United States Land Commissioners," have had the same under consideration, and submit the following report:

It appears that the petitioners are owners of a certain tract of land in the State of California, known as "Ulpines Rancho;" that they derived their title thereto from one José de la Rosa, who derived his title from the government of Mexico; that said De Rosa lived upon and occupied the said lands both before and after the grant from the Mexican government; that in 1850 the wife of the said De Rosa abandoned him and went to Mexico, carrying with her the title papers to the said tract of land, and that they were not recovered until after the expiration of the time fixed for filing such claims, under the act of 3d of March, 1851.

The petitioners now ask permission to file their claim and title papers before the said commissioners.

Your committee believe that justice requires that the prayer of the petition shall be granted, they therefore report the accompanying bill, and recommend its passage.

IN THE SENATE OF THE UNITED STATES.

April 17, 1854.—Ordered to be printed.

Mr. Rusk made the following

REPORT.

[To accompany Bill S. 331.]

The Committee on the Post Office and Post Roads, to whom was referred the petition of R. D. Battle, administrator of Isaac L. Battle, praying that the estate may be released from further liability under a judgment in favor of the United States, having had the same under consideration, report:

That they find the facts correctly stated in a report made from this committee on the 29th July, 1852. They, therefore, adopt that report and recommend the passage of the accompanying bill.

In Senate.—July 26, 1852.

The Committee on the Post Office and Post Roads, to whom was referred the "petition of R. D. Battle, administrator of the estate of Isaac L. Battle, praying that the estate may be released from further liability under a judgment," have had the same under consideration, and respectfully report:

The facts in the case appear to be as follows: In the year 1842, Charles Matthews and William King were the successful bidders for a contract with the Post Office Department to carry the mail three times a week, backward and forward, between Bainbridge, in the State of Georgia, and Pensacola, in Florida, and Isaac L. Battle, the petitioner's intestate, became guarantor in their behalf. Matthews and King failed to execute their contract or to perform any portion thereof, in consequence of which the mail was carried by W. T. Stockton & Co., who had been the contractors previously, from "the 1st of July, 1843, to the 8th of October, 1843," at which time the route was re-let at the price stated in their bid. During the time for which Stockton & Co. carried the mail it was carried at the rate previously paid to them, say $21,000 per annum, and on the 21st of August, 1846, suit was ordered to be brought against King and Matthews, and Isaac L. Battle, their guarantor, to recover $3,125 as the difference between their bid, $9,500 per annum, and the rate paid to Stockton & Co., $21,000. On the 5th of

January, 1848, judgment was obtained against Felix G. Long, executor of Charles Matthews, for $3,924 62, and an execution issued to satisfy said judgment, upon which $107 14 was paid over to the department on the 9th of April, 1849, after deducting for costs $164 86. Process was at the same time issued, but was not served, on King or Battle. The claim from which the petitioner asks to be released is the balance under the above judgment, on the ground that he, as administrator of Isaac L. Battle, had no information that there was such a claim in existence, until he had paid out as administrator all the assets in hand with the exception of $1,500 which he had reserved for the payment of a debt due from the estate to a widow woman named Lewis, who is poor and must lose the whole of her claim if the debt to government be paid. A further ground on which the petitioner asks to be released, is the laches on the part of the government in not prosecuting its claim at the time of the failure on the part of King and Matthews, and when they were able to pay the damage sustained, instead of waiting four years, at the end of which time one of the principals had left the State and the other had died, leaving an estate almost totally inadequate to meet the liability.

Your committee think that the delay of the government had the effect of depriving the guarantor of any recourse he might have had against the bidders in question, for indemnity against the liability incurred by him in their behalf, and in this way was the real cause of any loss that may have been sustained, owing to the remissness of the officers of the government, for which the innocent family of the guarantor or his creditors cannot in justice be held accountable. Guarantors become such under the supposition that in the event of a failure on the part of those for whom they become security to do the thing proposed, they will at least have an opportunity afforded them to protect themselves and their families against any liability incurred. Where no such opportunity is given, and the government and its officers, by remissness in the performance of their duty, cause a wrong to be inflicted which they might have prevented by proper dilligence, it is no more than justice, in the opinion of your committee, that the party wronged shall be released from any mere legal liability incurred. They therefore recommend the adoption of the accompanying resolution.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 211.

IN THE SENATE OF THE UNITED STATES.

April 17, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

The Committee on Private Land Claims, to whom was referred the "Memorial of George Barrell and others, praying confirmation of their title to certain lands purchased of the Indian tribes on the northwest coast of America; or such compensation as Congress shall deem just and proper for their explorations and discoveries in those regions," have had the same under consideration, and submit the following report:

The committee find a report upon said memorial, submitted to the Senate on the 11th August, 1852, by Mr. Felch, then chairman of the Committee on Public Lands, in which, after a full recital of the facts, the committee make use of the following language, (see page 13:)

"The principles relative to such new discoveries, it is belived, are well settled in the code of civilized nations. The citizen of any country first taking possession, does so in the name of his nation; and the jurisdiction of the country, with the exclusive right to the soil, subject to the possessory right of the natives, invests in the government of him who first asserts and maintains possession. The right to extinguish the possessory title of the natives does not vest in the individual discoverer, but in his government, and a purchase thus made by him of the natives, would, it is conceived, give no title as against his government, unless made with the previous consent of the latter, or subsequently confirmed by the proper authorities of his nation.

"If this view of the subject be correct, it follows that the owners of the two vessels acquire no title in the land by their purchase of the Indian chiefs."

Your committee fully endorse the part of the report above set forth. This, then, disposes of all that part of the memorial which was properly referable to this committee.

There is another proposition, however, in the memorial which contemplates some pecuniary compensation for the losses and expenses incurred in this early exploration and settlement upon our northwest coast. This question, your committee are of opinion, belongs exclusively to the Committee on Claims; they, therefore, without expressing an opinion of the merits of this latter proposition, report back the memorial, and recommend that all that part of the memorial which relates to compensation for these early discoveries, explorations, and settlement, be referred to the Committee of Claims.

IN THE SENATE OF THE UNITED STATES.

April 17, 1854.—Ordered to be printed.

Mr. Brown made the following

REPORT.

The Committee on Indian Affairs, to whom was referred the petition of the legal representatives of Henry Conner, alias Wabish-ken-dib, praying the payment of an amount awarded said Conner under the treaty with the Saganaw band of Chippewa Indians, of January 14, 1837, *have had the same under consideration and respectfully report:*

That, in 1837, the United States treated with the Saganaw band of Chippewa Indians for one hundred and two thousand four hundred acres of land, and, by the third article of the convention, agreed to pay o the Indians the net proceeds of the sales of said land. The fourth rticle of the treaty specifies the several purposes to which the money was to be applied, and among these was the payment of certain sums f money amounting, in the aggregate, to $12,243 75; more particularly described in a schedule appended to the treaty, marked B. By eference to this schedule it appears that Wabish-ken-dib, or Henry Conner, was to be paid $3,243 75, and this is the money now claimed y the petitioners.

By reference to the accompanying letters from the Commissioners of he General Land Office and of Indian Affairs, it will be seen that the United States has advanced to the Indians, on account of treaty stipulations with the Saganaws, $70,000, and has received from the sales f the lands acquired only $68,094 26, and that there is nothing in he treasury to the credit of the Saganaw band of Indians. It follows hat the United States is under no obligation, at this time, to pay the emand of the petitioners.

The minimum price of these lands has been fixed, by law, at $2 50 er acre. The commissioner does not advise a reduction of the price, r the reason that they are selling as fast at that price as other government lands at the usual minimum of $1 25 per acre. If reduced in rice to the general minimum of $1 25, it is not likely the net proceeds f the sales would ever discharge all the demands against them. The nited States is only obliged to account for the net proceeds of the les of the lands. The claimants have never asked to have the price educed. When sold the accounting officers are fully authorized, under isting laws, to pay out the money to the petitioners, or others entitled o receive.

The committee do not believe any further legislation necessary insure justice, and they ask to be discharged from the further conside ation of the subject.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, April 14, 1854.

SIR: I have the honor to acknowledge the receipt of your letter the 2d instant, with the enclosed petition of the heirs of Henry Conn and other papers, relative to a claim of said Conner, under the trea with the Chippewas of Saganaw, of 14th January, 1837, and to rep to your interrogatories, as follows:

1. As stated by the petitioners, the sum of $3,243 75 does stand the credit of Henry Conner, and is embraced in the schedule B, tached to the treaty.

2. A part of the land, out of the proceeds of which this and li claims are to be paid, has been sold. Originally there were 102,4 acres. Up to 30th December last, 25,427,89 acres had been dispos of, producing $68,094 26. This sum does not reimburse the gover ment for the $70,000 advanced in accordance with the 5th article the treaty, and, consequently, there is still no fund applicable to t payment of Conner's claim.

3. The Commissioner of the General Land Office is of the opini that the unsold portion of the land is not likely to remain so, and se no reason why the price should be reduced. I enclose a copy of l letter of the 12th instant, furnishing information on these and oth points.

4. The lands were, originally, offered at public sale, and are no subject to private entry, at the minimum price of $2 50 per acre.

5. As to what legislation is necessary to insure justice to the claima and others, I respectfully refer you to the precedent in the case Wah-in-gun, who transferred his claim to Henry D. Garrison. S act for the relief of the latter, approved March 3, 1849.

I return herewith the papers enclosed by you.

Very respectfully, your obedient servant,

GEO. W. MANYPENNY,
Commissioner.

Hon. A. G. BROWN,
of Committee on Indian Affairs, Senate U. S.

GENERAL LAND OFFICE,
April 12, 1854.

SIR: I am in receipt of your letter of the 8th instant, and have reply that the quantity of land ceded by the Chippewas of Sagina under the treaty of 14th January, 1837, was 102,400 acres; of whi there has been sold, up to the 31st December, 1853, 25,427,59 acr for $68,094 26. These lands were, originally, offered at public sa as other public lands, and are now subject to private entry, at t minimum price of $2 50 per acre.

I know of no portion of these lands remaining unsold likely to remain so, as the average quantity sold is about the same annually, except during the last year, when it was about double; and, as the price does not seem to interfere with their sale, I see no reason why it should be reduced.

I am, very respectfully, your obedient servant,

JOHN WILSON,
Commissioner.

COMMISSIONER INDIAN AFFAIRS.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 214.

IN THE SENATE OF THE UNITED STATES.

April 18, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

[To accompany Bill S. 334.]

The Committee on Private Land Claims, to which was referred the petition of Francois Cousin, praying the confirmation of his title to a tract of land, have had the same under consideration, and submit the following report:

It appears that Francois Cousin, sen., father of the petitioner, about the year 1770, settled upon and cultivated a tract of land bordering on the bayou Lacombe, in the province of Louisiana; that, from the affidavit of Charles Trodeau, late surveyor general of the said province, it appears "that in the year one thousand seven hundred and eighty-five, Mr. Francois Cousin presented four decrees, or grants, forming, together, forty arpens front on the right bank of bayou Lacombe, and one hundred and twenty arpens in depth;" that the same were recorded by him in the record books, which were destroyed by fire in the year 1788.

It also appears that said Francois Cousin, sen., continued to reside upon and cultivate the said lands until the time of his death, and that his son, the petitioner, has, since the death of his father, also resided upon and cultivated the said lands.

It also appears that the claim of said Francois Cousin was filed with the commissioner to adjust private land claims in the Territory of Louisiana, who, in his report, classed the said claim among the "anomalous claims" as No. 21, and which was not confirmed by the commissioner, but favorably recommended for the consideration of Congress.

The committee are of the opinion that the antiquity of the settlement and cultivation of the land claimed, together with all the circumstances connected with the case, warrant Congress in confirming the title of the petitioner to the lands in question; they therefore report the accompanying bill and recommend its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 215.

IN THE SENATE OF THE UNITED STATES.

April 18, 1854.—Ordered to be printed.

Mr. Everett made the following

REPORT.

[To accompany Bill S. 336.]

The Committee on Foreign Relations, to whom was referred the memorial of Charles Evans and others, citizens of Florida, who sustained losses by the operations of the United States army in that quarter in 1814, *have had the same under consideration, and submit the following report:*

This memorial, and others of like purport, have on several former occasions been presented to the two Houses of Congress, and been favorably reported on. A report of that character was made from the Committee of Foreign Relations of the Senate, on the 2d June, 1848, by Mr. Webster, which report was accompanied by a bill, "further to carry into effect the provisions and stipulations of the ninth article of the Florida treaty, with respect to certain losses of Spanish subjects in West Florida."

The committee, concurring in the views and statements set forth in the aforesaid report, adopt it as part of their own, and submit the same bill.

In Senate.—June 2, 1848.

The Committee on Foreign Relations, to whom was referred the bill to be entitled "an act further to carry into effect the provisions and stipulations of the ninth article of the Florida treaty with respect to certain losses of Spanish subjects in West Florida," and the memorial of certain citizens of West Florida praying for the passage thereof, and sundry documents accompanying the same, report:

That the documents submitted to the committee exhibit fully the facts and principles upon which the claims proposed to be settled by the bill above mentioned rest. After the reports in favor of the payment of these claims, heretofore made at three different sessions by standing committees of the House of Representatives, and a similar report of the Committee on Foreign Relations of the Senate, 1st session,

29th Congress, and the very full report of the Judiciary Committee of the Senate at the last session, also in favor of their liquidation, and which gives a history of the transactions on which they are founded, and also advances and maintains the principles calling for the legislation proposed, this committee do not regard it necessary to do more than to state briefly the general character of these claims, and make reference to those reports.

By the treaty with Spain, concluded in 1819, the United States agreed to pay Spanish subjects, residents of the Floridas, for losses occasioned by certain operations previously of American troops in those provinces; the amount to be ascertained by process of law.

In 1823 Congress authorized the federal judges in Florida to take testimony and adjudicate all claims arising under this stipulation of the treaty, and report the cases to the Treasury Department for the revision and final decision of the Secretary upon them.

Under this act the judges took the testimony and made the reports as to three classes of claims: 1st. For losses in the invasion of 1812 and 1813 of East Florida; 2d. For losses in the invasion of 1814 of *West* Florida; and 3d. For losses in the invasion of 1818 of both provinces.

Secretary Crawford rejected the claims of 1812, 1813, and 1814, as "not embraced by the treaty," and Secretary Rush refused to disturb his decision.

Congress, in 1834, after the question had been before it for many years; on the petition of the claimants of 1812 and 1813, reversed that decision so far as it applied to the two years just specified, by an act passed 25th of June, 1834; but the claims of 1814 were not included in that law.

The proposed bill is to allow the Secretary of the Treasury to examine and to supervise the adjudications of the judges in favor of these claims, and to revise the aforesaid decisions of the secretaries excluding them, and pay such amounts as he may deem just, regarding them as embraced by the treaty.

The committee consider the principle question involved as settled by the decision of Congress in 1834, that the losses of 1812 and 1813 were "embraced by the treaty," though they had been excluded by the secretaries, on the ground that the *English* version of the treaty, (not referring to the *Spanish* copy,) extended only to the losses of 1818, the term "*late*" preceding the word "operations" being in that version but not in the Spanish. If, however, there had not been any such legislative decision, it seems to the committee that the reports heretofore made by committees of the Senate and of the House show, quite satisfactorily, that in justice the losses of 1814 ought to have been included in the treaty stipulation; that it was intended they should be included; and that they were and are in fact so included; and that good faith on the part of this government requires that they should be investigated and the amounts ascertained to be due paid.

The claims of 1814, reported by the judge, are in the aggregate $72,639 06. Of this amount the judge reported $24,522 02 as allowed by him "absolutely," and $48,116 56 "provisionally." The

Secretary of the Treasury, in his supervision of the decisions of the judge, will make such deductions as he may deem right.

The committee report back to the Senate without amendment the said bill, which is precisely like that reported by the Judiciary Committee at last session, and which they recommend be passed.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 216.

IN THE SENATE OF THE UNITED STATES.

April 18, 1854.—Ordered to be printed.

Mr. Jones, of Iowa, made the following

REPORT.

[To accompany Bill S. 18.]

The Committee on Pensions, to whom was referred S. Bill 18, *for the relief of Sophia Kirby, report:*

That no papers of any description accompanied the said bill, and in the absence of all information as to the nature of the claim for relief, or the facts upon which such claim may rest, the bill was referred to the Commissioner of Pensions, with a view to elicit any information in relation to the case which might be on file in his office. In a letter of date March 3, 1854, he says: "As the bill is unaccompanied by papers of any description, I am at a loss to understand upon what ground the relief proposed is based. It is probable, however, that a mistake has been made in the name of Mrs. Kirby's husband; for I find, on referring to the Kentucky roll of pensioners, that *Jesse* Kirby, of Warren county, of that State, was pensioned on the 22d of October, 1832, under the act of June 7, 1832, at the rate of $32 22 per annum, which covered all the service claimed to have been rendered by him, viz: nine months and twenty days in the militia of Virginia. It appears that he died on the 17th of December, 1852, from which date his widow, Sophia Kirby, (the name in the bill,) was pensioned under the act of February 2, 1848, at the same rate, and is still inscribed on the roll."

Assuming that the person referred to by the commissioner is the same for whose relief the bill is intended to provide, and who is now receiving the full amount of pension to which her husband was entitled, the committee do not feel warranted, especially in the absence of all information respecting the case, except that furnished by the commissioner's letter, in increasing the amount she now receives by an act of special legislation. They, therefore, recommend that the bill do not pass.

IN THE SENATE OF THE UNITED STATES.

APRIL 18, 1854.—Ordered to be printed.

Mr. COOPER made the following

REPORT.

[To accompany Bill S. 337.]

Committee on Revolutionary Claims, to whom was referred the me-ial of Eliza M. Evans, only child and heir at law of Colonel Anthony lton White, a colonel in the revolutionary army, beg leave to report:

at they have examined the claim of Mrs. Evans, and adopt the : of the committee, made at the 1st session 32d Congress.

IN SENATE.—APRIL 7, 1852.

Committee on Revolutionary Claims, to whom was referred the petition Mrs. Eliza M. Evans, only child and heir of Colonel Anthony W. ite, deceased, late a colonel in the revolutionary army, have had the : under consideration, and now report:

ey find the said Anthony W. White to have served in the revolu-y army, with the rank of colonel; that prior to the year 1783 he iced to the United States, for the support of his regiment, the sum ,750; that from 1788 down to the year 1838, either the said :, or his legal representatives, made continual efforts to obtain a nent of his accounts and a repayment of the loan; and that ; this time, both the Secretary of War and the committees of ess uniformly reported in favor of the justice of the claim; that r. on the 7th July, 1838, an act was approved to refund to the

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 218.

IN THE SENATE OF THE UNITED STATES.

April 18, 1854.—Ordered to be printed.

Mr. Shields made the following

REPORT.

[To accompany Bill S. 339.]

The Committee on Military Affairs, to whom was referred the petitions of Daniel Hay and others, having had the same under consideration, report:

The petitioners ask to be remunerated for their services as pension agents, prior to the 20th of February, 1847, and subsequent to the 20th of April, 1836.

It appears that upon the 20th of April, 1836, Congress repealed the law which authorized the bank of the United States to pay pensions, (vide statutes at large, vol. 5, page 16,) and at the same time enacted, "That all such payments shall be hereafter made, at such times and places, by such persons or corporations, and under such regulations, as the Secretary of War may direct; but no compensation or allowance shall be made to such persons or corporations for making such payments, without authority of law."

Soon after the passage of this act, many of the pension agents tendered their resignations which, however, they were induced to withdraw, with the assurance that Congress would speedily compensate them for their services. Numerous efforts were from time to time made to fix the compensation of these officers, but nothing was done in the matter until the 20th of February, 1847, when an act was passed allowing pension agents a commission of two per cent. upon their disbursements, provided the same should not exceed in any case the sum of one thousand dollars per annum. But this law had no retrospective effect, and in consequence of this omission no compensation has been made to the pension agents who served during the whole or any part of the time from the 20th of April, 1836, to the 20th of February, 1847, nearly eleven years.

It is not to be presumed that these persons would serve as agents of the government—providing their own books and stationery, employing their own clerks, paying their own office rent, and, in many instances, advancing their own funds to pay the pensioners—unless they were induced to do so by the promise and expectation of adequate compensation. The Secretary of War and the Commissioner of Pensions, in their annual reports to the 1st session of the 26th Congress, and in their

reports before and since, call the attention of Congress to the necessity and justice of making provision for the payment of these agents, and the committee think it only reasonable that they should be paid for services rendered under such circumstances.

And the committee, while examining this matter, although the subject has not been formally referred to them, have thought fit to consider the recommendation of the Commissioner of Pensions, made in his annual reports, (see S. Ex. Doc. No. 1, 33d Congress, 1st session, p. p. 493-4,) in which he states that the present compensation to agents for paying pensions is not adequate to the services and responsibilities of some of these agents. With a view therefore of carrying out the recommendation of the department, and of properly remunerating a number of worthy individuals for services cheerfully and faithfully performed without compensation, but with the expectation and promise thereof, the committee have reported a bill to embrace the whole subject, and confidently recommend its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 219.

IN THE SENATE OF THE UNITED STATES.

April 18, 1854.—Ordered to be printed.

Mr. Jones, of Iowa, made the following

REPORT.

[To accompany Bill S. 340.]

The Committee on Pensions, to whom was referred the petition of Sarah Crandall, widow of James Coon, for a pension, beg leave to report:

That this case has been before the committee at three several times since the year 1849, and in each instance has received a favorable consideration, and a bill for the relief of petitioner has as often been reported and passed the Senate, but failed in the House. The committee fully concur in the views of the report made in 1849, and adopt the same as part of their report, and submit a bill for her relief.

In Senate.—July 26, 1852.

The Committee on Pensions, to whom was presented the petition of Sarah Crandall, report:

That there have been two reports made to the Senate from the Committee on Pensions favorable to the petitioner, accompanied by bills for her relief. With said reports (one dated February 20, 1849, the other January 9, 1851,) the committee concur, and recommend the passage of a bill for her relief.

In Senate.—January , 1851.

The Committee on Pensions, to whom was referred the Petition of Sarah Crandall, widow of James Coon, report:

That they concur in the views expressed by the committee in the report made on said petition the 20th February, 1849, and adopt the same as a part of their report, and submit a bill for her relief.

FEBRUARY 20, 1849.

The Committee on Pensions, to whom was referred the petition of Sarah Crandall, widow of James Coon, for a pension, report:

The proofs in the case show that the petitioner was married to James Coon as early as the year 1790; that the said Coon died in 1799; that his widow afterwards married Jasper Crandall, who died a few years since, leaving the petitioner again a widow.

It is claimed by the petitioner that James Coon, her first husband, was a soldier in the revolutionary war, and served in Colonel Warner's regiment, which was raised principally in Connecticut, and that he enlisted for three years, and continued on duty during that time.

The certificate of the comptroller of the State of Connecticut shows that, according to the records in that office, James Coon served in the revolutionary war and in Warner's regiment twenty-three months and ten days.

The Commissioner of Pensions rejected the petitioner's application for a pension under the general laws, on the ground that the proof was insufficient to identify her husband with the James Coon above mentioned, who was shown by the record to have served nearly two years.

It appears from the records in the comptroller's office that there were two individuals bearing the name of James Coon on the roll of Warner's regiment—one was a lieutenant, and the other was denominated "fifer." The first application of the petitioner to the Pension Office stated that her husband enlisted as a private soldier at Hopkinton, Rhode Island. Her papers were found defective, and it became necessary for her to seek record evidence of the services of her husband. She applied at the office of the comptroller of Connecticut, and received a certificate of the services of James Coon, the lieutenant, which she presented to the Pension Office as proof of the services of her husband. It was subsequently ascertained that the lieutenant was a resident of Salisbury, Connecticut, and not of Hopkinton, Rhode Island, where petitioner's husband resided at the time of his enlistment. She was then notified that there was another James Coon attached to Warner's regiment, who appeared by the rolls to have been a musician. The Commissioner of Pensions required her, in order to prove the identity of her husband with the James Coon last mentioned, to produce the testimony of "two or more witnesses who were themselves in service with him, and whose names were found on the same rolls." This testimony could not be procured. It will be observed that the petitioner was not married to Coon until after the close of his services in the army; that she resided both before and after the marriage in the State of New York, at a distance from the place of his enlistment and services; and that he died nearly fifty years ago. It is not surprising, therefore, that she should have supposed that the first certificate of the comptroller related to the services of her husband.

The committee have examined a large mass of testimony filed in the case, and are satisfied of the services of the petitioner's husband in the revolutionary war, and of his identity with the James Coon last above mentioned. William Barret testifies that he was present at Hopkinton,

hode Island, when they were enlisting soldiers for three years or ıring the war; that petitioner's husband enlisted and went into the my, where he remained during the term of his enlistment. Isaac Whittlesey testifies that he was present at the same time and place, ıd that said James Coon enlisted, as above stated, for three years; at the person who had the enlisting orders was from Connecticut; ıd that Coon joined Warner's regiment, was gone more than three ears, and after his return married the petitioner. Many witnesses also stify to their knowledge that petitioner's husband was absent and in ıe army for three years or thereabout; they recollect his departure to ıd his return from the service, and his removal, soon after his return, the State of New York, where he was married to the petitioner.

The committee being satisfied by the testimoney filed in the case, in ɔnnexion with the record evidence above mentioned, that the facts set ırth in the petition are substantiated, and are such as to entitle her to pension, herewith report a bill for that purpose.

IN THE SENATE OF THE UNITED STATES.

APRIL 18, 1854.—Ordered to be printed.

Mr. SEWARD made the following

REPORT.

e Committee on Pensions, to whom was referred the petition of Anne Royall, beg leave to report:

That the terms of the petition are very obscure, and the committee : at a loss to understand the precise nature of the claim preferred. There accompanies the petition a letter from the Third Auditor of the easury, dated January 17, 1853, from which it appears that the titioner made application to that office for copies of the papers upon ich the commutation of Captain William Royall, deceased, (her sband,) was paid; but there seems to be no sort of connection between : matter of the petition and the said letter, or any relevancy of the ter to the case.

The petition and papers were referred to the commissioner of pen- ns for examination, who, in a reply, dated March 4, 1854, says: She, (Mrs. Royall,) is now a pensioner on the roll of the District of lumbia, under act of July 29, 1848, at the rate of $480 per annum. at is the only law which embraces her case, as she was not married William Royall until the 18th of November, 1797; and I cannot derstand from the papers submitted the precise character of her esent application to Congress, as it appears that her husband received th commutation and bounty land for his services."

Prior to the passage of the act of 1848, under which the petitioner s pensioned, her application for relief was twice before Congress, d the House committee in 1840, and the Senate committee in 1843; ch reported adversely to any special legislation in her behalf. In ew of these facts, and of the liberal pension of which the petitioner is w in receipt, the committee recommend the adoption of the following solution:

Resolved, That the petition of Anne Royall, for further compensation the services of her husband in the revolutionary war, be rejected.

THE SENATE OF THE UNITED STATES.

APRIL 18, 1854.—Ordered to be printed.

Mr. JONES, of Iowa, made the following

REPORT.

ittee on Pensions, to whom was referred the petition of Rhoda ewis, an applicant for a revolutionary pension, report:

titioner, aged 88 years, and now a resident of Southington, t, represents that her husband, Seth Lewis, was a major paymaster during the revolutionary war, and was attached master General's office, in Philadelphia, for two years or

ot appear that any application for pension has been made r until very recently, when papers were filed in the office nissioner of Pensions, proving satisfactorily that Seth Lewis, vas the lawful husband of petitioner, and that he was a the society of the Cincinnati. This latter fact of member- society of the Cincinnati, clearly established by a certificate, General Washington as president of said society, is the only esented to show that Seth Lewis, deceased, the husband of was an officer and did service in the war of the revolution; xtracts from the constitution of said society are quoted to he could not have attained a membership in the society, un- been an officer of the army or navy, and left the service ition. The extracts referred to are as follows:

No. 1.

n the constitution of the society of the Cincinnati, established in 1783.

* * * * * * * *

officers of the American army, as well those who have re- honor after three years' service in the capacity of officers, e been deranged by the resolutions of Congress upon the orms of the army, as those who shall have continued to the war, have the right to become parties to this institution; hat they subscribe one month's pay, and sign their names to l rules, in their respective State societies: those who are rmy immediately, and others within six months after the be disbanded, extraordinary cases excepted; the rank, time

of service, resolution of Congress by which any have been deranged, and place of residence, must be added to each name," &c. * *

No. 2.

Extracts from the constitution of the society of the Cincinnati, as amended at the first general meeting in the city of Philadelphia, in May, 1784.

"ARTICLE 1. The persons who constitute this society are all the commissioned and brevet officers of the army and navy of the United States, who have served three years, and who left the service with reputation; all officers who were in actual service at the conclusion of the war; all the principal staff officers of the continental army; and the officers who have been deranged by the several resolutions of Congress upon the different reforms of the army.

"ARTICLE 2. There are also admitted into the society the late and present ministers of his most Christian Majesty to the United States, * * * * * * * and such other persons as have been admitted by the respective State meetings." * * * * * *

These extracts, as will be seen, do not bear out the conclusion that a member of the society of the Cincinnati must of necessity have served with distinction in the army or navy, as "such persons as might have been admitted by the respective State meetings" were to constitute, in part, its membership, and were entitled to certificates, under the hand of the president, of such membership. It would seem strange, too, that in the case of a major by rank, serving in the Paymaster General's office for two years, as alleged, the usual sources of information, the records and rolls, should fail to afford the slightest evidence of service.

The Commissioner of Pensions, in a letter of date January 24, 1854, says, referring to the proof of membership in the society of the Cincinnati, and admitting that fact: "But this is not sufficient of itself; we must have evidence of his service derived from the usual sources of information in like cases, and cannot depart, on mere traditionary evidence, however creditable the source from which it is derived. The fact that a person was a member of the Cincinnati is strong evidence of reputation, but will not dispense with other evidence of service."

The committee are of opinion that the evidence presented with the petition is not sufficient to justify them in overruling the decision of the Commissioner of Pensions; they therefore recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner be rejected.

IN THE SENATE OF THE UNITED STATES.

APRIL 19, 1854.—Ordered to be printed.

Mr. WADE made the following

REPORT.

[To accompany Bill S. 342.]

Committee of Claims, to whom was referred the memorial of William Darby, report:

ıat they find the said Darby was the first to furnish an accurate of that portion of the territory of the United States lying west of ſissippi, and bordering on the line between the United States Spain, as fixed by the treaty ceding Louisiana to the United States. committee are satisfied that the materials for a map thus procured Ir. Darby were those used by Melish, in his map published in ; that said Darby was never remunerated for his services by said ɜh, and that his (Darby's) contributions to our then scanty stock of ɣledge, as to the geography of the country referred to, were of t value to the government of the United States. The committee ıatisfied that Mr. Darby has never received any compensation for 'aluable services, and they cannot doubt the propriety of rewarding

As the government has availed itself of the unpaid labors of Mr. ɔy, the committee conceive it to be just that the government should e compensation to him. They therefore report a bill allowing him 00. A similar bill was reported by a special committee, to whom ıubject was referred, at the first session of the Thirtieth Congress, passed the Senate at the succeeding Congress.

lthough the committee are aware that this is, by no means, an ade- e compensation for the labors and materials of the petitioner, yet, e has no strictly legal claim, the committee have thought the above might afford some small relief. He is now far advanced in life, in very infirm health, and, having spent most of his active years ɜeful scientific pursuits, like most men of that class, he finds him- near the close of life, dependent on his daily exertions for subsist-

CONGRESS, [SENATE.] REP. COM.
t Session. No. 223.

IN THE SENATE OF THE UNITED STATES.

APRIL 19, 1854.—Ordered to be printed.

Mr. ALLEN made the following

REPORT.

Committee on Pensions, to whom was referred the petition of Harriet Vilcon, widow of an officer in the revenue service, for a pension; also, e petition of Elizabeth A. W. Gibson, widow of a carpenter in the venue service, for a pension, report:

hat it has not been the design of Congress, as appears by all the ilation upon the subject, to include the revenue service within the visions of its pension system. Hence, at no time has this class been led to the benefits of the system, except when acting with the y in time of war. Neither of the above cases come within this , and the committee do not deem it expedient to create a precedent, pecial legislation, so foreign to the general design of the pension s. Without denying the merit of such cases, or expressing any ion as to the policy of providing for them by general laws, they mmend that the prayer of the petitioners above named for special f. be denied.

IN THE SENATE OF THE UNITED STATES.

April 19, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

'he Committee on Pensions, to whom was referred the petition of Lewis Elwell and others, of Northport, Maine, who were detained as prisoners of war in Dartmoor, during the war of 1812, *praying compensation for diseases and loss of health occasioned by their captivity; also, the petition of citizens of the United States upon the same subject; also, two petitions of American citizens upon the same subject, beg leave to report:*

That so far as the said petitions refer to individual cases, they are nsupported by any proofs whatever, and the committee can take no ction thereon, save to ask to be discharged from their further consid-ration.

So far as the petitioners pray for general provisions for this particular lass of persons, the subject has been under consideration, and the con-lusions of the committee are adverse to the prayer.

If persons confined at Dartmoor and other places during the war of 812–14, were truly prisoners of war, and in the naval or land service f the United States at the time of their capture, ample provision is lready made for them by existing laws, and will not be denied when he proper proofs of disabilities so incurred are presented at the de-artment. If they were not in the service of the United States when aptured, but were taken from merchant or coasting vessels, while pur-uing their usual calling, for their personal benefit, the committee can-ot recognize any claim they may make upon the government for ension, or compensation for sufferings and captivity thus incurred.

It is true that in 1816 Congress passed an act making special pro-ision for those persons wounded at Dartmoor, in the month of April, 815, and for the widows of those killed, or who died of wounds then eceived. The committee are of opinion that this act of 1816 was ustified by the peculiar circumstances under which the wounds, &c., vere received at the particular time mentioned; but they know of no act which would justify the extension of its provisions to *all* persons, nough not of the army or navy, but merely of the merchant service, vho were imprisoned during the war, and became disabled from iseases incurred in captivity. They therefore recommend that the rayer of the petitioners be denied.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 225.

IN THE SENATE OF THE UNITED STATES.

April 20, 1854.—Ordered to be printed.

Mr. Rusk made the following

REPORT.

[To accompany Bill S. 344.]

The Committee on the Post Office and Post Roads, to whom was referred the petition of James Jeffries and Jeremiah M. Smith, have had the same under consideration and beg leave to report:

That at the mail lettings in 1850, the said petitioners bid off a number of routes in the State of Texas, among others, for routes Nos. 6268, 6269, 6277, which they failed to put into operation, and for which failure the Postmaster General imposed several fines upon them, and detained their pay upon other routes upon which they are performing service. It appears in evidence that they made efforts to put the service upon the routes mentioned but failed. It is further in proof, that route No. 6268 was advertised as 91 miles, when the actual distance was 135 miles; route No. 6269 was stated in the advertisement at 35 miles, the actual distance was 65 miles; route No. 6277 was advertised at 78 miles, when the actual distance was 105 miles, making the actual distance upon the three routes 305 miles, when they were advertised at only 204 miles. Under the circumstances the committee are of opinion that the petitioners are entitled to relief, and report a bill for that purpose.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 226.

IN THE SENATE OF THE UNITED STATES.

April 20, 1854.—Ordered to be printed.

Mr. Toombs made the following

REPORT.

[To accompany Bill S. 43.]

The Committee on Indian Affairs, to whom was referred Senate bill No. 53, entitled "A bill to authorize the payment of certain claims for depredations and spoliations during the hostilities with the Creek and Seminole Indians in 1836 and 1837," have had the same under consideration, and report:

That in the year 1832 the United States made a treaty with the Creek Indians, by which they ceded all their lands lying east of the Mississippi, reserving to each head of a family a specified quantity of land, who was entitled to hold the reservation in fee simple, independent of the tribe. These lands were situated wholly in the State of Alabama. It was stipulated in the treaty that the owners of these reservations might occupy or sell them at their pleasure, the contracts of sale being subject to approval by the government, to prevent imposition upon the Indians. While the Indians were not obliged by the treaty to emigrate, but might remain in Alabama if they chose to do so, the United States set apart and guaranteed to them a large tract of country west of the Mississippi river. After the ratification of the treaty, and immediately after the surveys were made and the reservations were set apart to them, the Indians commenced selling them out to citizens of the United States, under the sanction and approval, and even encouragement, of the government, until in the spring of 1836 scarcely an Indian owned a single acre of land in the ceded country. The government also, immediately after the completion of the surveys, put all the balance of the lands ceded to it by the Indians into market, and great numbers of citizens bought homes and settled in the ceded country in the midst of the Indians. The Indians having sold out their lands and squandered the proceeds, were left houseless and homeless, wanderers and outcasts, and in utter destitution. In the spring of 1836 the whole tribe was in a state of starvation, and began first by stealing, then by begging, and finally by intimidation and force, to extort a subsistence from the persons who had settled in the ceded country under purchases of land from themselves and from the government. There being no government troops stationed in the country, and the settlements being still sparse and inadequate to mutual protection, and the authority of the tribe being wholly insufficient to control or restrain

the starving Indians, after the perpetration of numerous murders by them privately, it was deemed unsafe to reside in the ceded country, and almost the whole population abandoned their homes, left such of their property as could not be carried away in a hasty flight, and sought safety in Georgia and the old settlements of Alabama.

After the whites abandoned their homes, marauding parties of the Indians continued to devastate the Indian country, and made occasional inroads across the Chatahoochee river into the neighboring settlements of Georgia, murdered many of the inhabitants, and destroyed and carried away much of their property. Upon information of these events, the governors of Georgia and Alabama immediately called into service a large body of volunteers, and marched them into the disturbed district; and the government of the United States ordered troops and its own officers to Alabama to suppress these outrages. General Jessup having been ordered to Alabama by the general government, immediately upon his arrival in the country, accepted the services of from 1,300 to 1,500 friendly Indians, to aid in suppressing the outbreak, and being without the means of support, they joined in the general plunder, and were subsisted upon the property of the unfortunate citizens. It is clearly proven, by the evidence of the commanding officer of the Indians, (Colonel Hogan,) that this band of Creeks, in the service of the United States, marched through the ceded country, slaughtered the cattle and hogs belonging to the settlers, and seized and consumed whatever remnant of corn, bacon, and other provisions of the inhabitants, had escaped the ravages of those whom they called the hostile Indians, and thus the ruin of the unfortunate inhabitants, begun by lawless enemies, was consumated by pretended friends, under the sanction of the flag of their own country. It is proven by the testimony of Colonel John B. Hogan, an agent of the government, and "acting adjutant and inspector general of a brigade of Indians, under the chief Opoth-le-Yoholo," that he raised from 1,300 to 1,500 Indians under that chief, at the instance of Governor Clay and General Jessup; marched them into the disturbed district, and was "ordered by General Jessup to subsist the force in the best manner (he) could, and (he) had forage parties out every day hunting up corn, fodder, and beef." He further states, "that as soon as the Indians would drive up a gang of cows, calves, or oxen, before I was aware of their being in any part of my camp, (which was very extensive, having from 1,300 to 1,500 Indians scattered all over the hills about Big Springs,) those Indians that were most in want of provisions would commence shooting them down. In this way an immense number of cattle were destroyed, and a great many more than were required for the actual subsistence of the whole army. No effort of mine, and of the white persons who were with me, and who acted as officers among the Indians, could prevent the abuse that took place in the destruction of cattle."

These facts are abundantly sustained by other unquestionable testimony, leaving no doubt but that the government supported its own troops by an indiscriminate plunder of the property of the citizens it was bound to protect. It further appears, that as soon as volunteer troops could be collected from Georgia and Alabama in sufficient numbers to repress the outrage and punish the aggressors, nearly all of the

Indians, who had been engaged in these depredations, came in and surrendered to the officers of the United States, received rations, and were protected by them, and emigrated to their homes west of the Mississippi river; and so far from demanding indemnity from them for their spoliations, which it was perfectly in its power to obtain, the government of the United States have continued to pay them large annual annuities, and occasionally made large grants of money to them under different pretences, wrung, in due proportion, from the hard earnings of these plundered citizens. A few straggling parties only of these Indians refused to emigrate, and attempted to make their way through Georgia to the hostile Seminoles in Florida; they were pursued by the Georgia troops, and those of them who escaped being killed in battle succeeded in this effort; other small parties concealed themselves in the swamps and other secure places in the ceded country, and subsequently to the general emigration recommenced their depredations, but were speedily met, defeated, and subdued by the Alabama volunteers, commanded by General Wellborn.

It is perfectly clear that these spoliations were not committed under any authority from the Creek Nation of Indians, but they were the lawless acts of roving bands of Indians seeking plunder. No action was fought with them in Alabama, where the tribe resided, except with the small parties who concealed themselves and remained after the body of the nation had removed; and none in Georgia, except with the other small parties, who were overtaken by the Georgia militia, in their plundering excursions, or in their attempts to get into Florida. Therefore, the whole of the spoliations committed fall clearly within the principle of the various intercourse acts passed by Congress, by which this government has bound itself to compel the Indians to pay for such outrages, or to indemnify the citizens for them out of the public treasury. Thus far the government have done neither the one nor the other. Compensation for that portion of the spoliations committed by Indians in the service of the United States, and by the orders of its officers, is demanded under the plain letter and meaning of the constitution, which fully sustains that demand: that constitution declares that private property shall not be taken for public use without just compensation.

Immediate notice was given of these depredations to the government, and earnest appeals were made to it by the sufferers for indemnity; and Congress, on the second day of March, 1837, passed an act authorizing the President of the United States to appoint three commissioners to inquire into and report the amount and nature of these spoliations. They were appointed, entered upon the discharge of their duties, visited the Creek country, heard evidence on each claim, and, after a severe scrutiny of the claims, rejecting all demands for consequential damages, reported the actual value of the property taken or destroyed by the Indians, together with all the attendant circumstances. This report was submitted to Congress by the President on the 27th of January, 1838, and embraces all the claims for which payment is sought and provided for by the bill referred to your committee. The claimants have continued from time to time to urge the consideration and payment of their claims by Congress, but hitherto in vain.

Your committee are not aware of any objections having been urged

against the accuracy of the claims or the mode of ascertaining them, except by the injured parties, who complain that consequential damages ought to have been allowed, and that the commissioners undervalued the property taken and destroyed by the Indians. The only objection to their payment which seems heretofore to have been urged, is, that these depredations were committed by the public enemy in public war, and that therefore the government is not bound to indemnify the citizens for them. The first and sufficient answer to this objection is, that if the rule be a sound one, the facts do not warrant its application to these claims. The soundness of the rule itself is open to grave objections. It is against principle, and the authorities upon it are conflicting. The sound and fundamental general principle of the social system is that each member of society "shall only bear his quota" of the public burdens or public calamities either in peace or war. It being the duty of society to protect all of its members, even when the State is really unable to perform this duty, it violates the principle upon which it is based, and of natural equity, not compel each member of the State to bear his equal proportion of injuries committed against any one member even by the public enemy. Grotius says, that the publicists are divided on the question, and Vattel, who seems to relieve society from the absolute obligation, puts it mainly on the ground that a different rule would soon "exhaust the public finances," but he fully admits its strict justice and conformity to natural equity. He says, "it is perfectly consonant to the duties of the State and sovereign, and of course perfectly equitable, and even strictly just, to relieve, as far as possible, those unhappy sufferers who have been ruined by the ravages of war, as likewise to take care of the family of those whose head and support has lost his life in the service of the State. There are many debts which are considered as sacred by the man who knows his duty, although they do not afford any ground of action against him." But if this rule is sound, it is not universal. Even if this was public war, waged by public authority on both sides, one of its legitimate objects on one side was to secure the expenses to the government and the losses to the citizen of conducting it. Vattel says, "who ever uses a citizen ill, indirectly offends the State which is bound to protect this citizen; and the sovereign of the latter should avenge his wrongs, punish the aggressor, and, if possible, oblige him to make full reparation; since otherwise the citizen would not obtain the great end of the civil association, which is safety." All publicists admit, that it is not only just, but that it is the duty of the conqueror to compel the enemy to repair the wrongs which his own injustice has occasioned. This government has almost uniformly acted upon this principle, even in its public wars with the Indian tribes on this continent. Stipulations for indemnity for injuries committed in war are to be found scattered through all the Indian treaties of peace. Such provisions are to be found in all the treaties made with the Creek Indians, from the treaty of Augusta, in 1783, down to the treaty of Indian Springs, in 1821, establishing the fact that the government has uniformly demanded of the Indians indemnity for spoliations committed in actual public war, in her treaties of peace, and has compelled the Indians to pay for other spoliations committed by the tribes not in public war, or undertaken herself to pay

them in her various laws regulating intercourse with the Indians; therefore, by the laws of nations, and by the uniform policy of the government exhibited in its Indian treaties, these claimants would be entitled to indemnity even if these spoliations had been committed in a public war. But in this case there was no treaty of peace, for the reason that there was no public war by the nation.

But public war can only exist by authority of the sovereign power. The evidence is full and conclusive that neither the sovereign power of the Creek nation, nor any other public authority of that nation authorized war against the United States or of its citizens, at this time. On the contrary, the nation opposed it, and its head chief, Opath-le-Yo-ho-lo, and fifteen hundred warriors, enlisted in the service of the United States to suppress this lawless violence, and to punish the perpetrators. The spoliations for which redress is now sought were caused by "predatory expeditions, undertaken without lawful authority, and without cause, as likewise without the usual formalities, and solely with the view to plunder," and is therefore excepted by Vattel and all the approved publicists from the principle under which redress is here sought to be derived, and brings it within the principle under which, by the practice of all civilized nations, the citizen or subject has been held entitled to indemnity, and under which this government has uniformly extended redress. Your committee, therefore, unanimously recommend the passage of the bill, which is herewith reported back to the Senate.

IN THE SENATE OF THE UNITED STATES.

APRIL 20, 1854.—Ordered to be printed.

Mr. TOOMBS made the following

REPORT.

[To accompany Bill S. 345.]

'ommittee on Indian Affairs have examined the petition of Calvin B. mour, of Stewart county, Georgia, together with the proofs in support it, and report:

at on the 15th day of May, 1836, the petitioner and his partners oods, wares, and merchandize, of the value of five thousand nine ed and eighty dollars, stored in the warehouse of Henry W. gan & Co., in the town of Roanoke, Stewart county, Georgia, and aid warehouse was taken possession of and occupied by certain s in the service of the United States, and that, whilst in possession troops, they were attacked and defeated by the hostile Creek ns, the warehouse burnt, and the goods taken or destroyed by the ns. The petitioner also shows that he purchased from his partners, H. Boynton, all their interest in the said goods, wares, and handise aforesaid, and that he alone is now interested. Upon facts the committee are of opinion that the petitioner is entitled lemnity, and therefore report a bill for his relief.

e committee have also examined the petition and proofs accomng it, of William Boynton, surviving copartner of W. & H. ton, and find the facts to be, that he, also, together with his partner, oods, wares, and merchandize, of the value of three thousand two ed and one dollars and twenty-three cents, ($3,201 23,) stowed same warehouse, and at the same time were taken or destroyed e Creek Indians, as before stated. Therefore, in the opinion of mmittee, he is entitled to indemnity, and the committee therefore a bill for his relief.

IN THE SENATE OF THE UNITED STATES.

APRIL 20, 1854.—Ordered to be printed.

Mr. SEWARD made the following

REPORT.

[To accompany Bill S. 346.]

Committee on Pensions, to whom was referred the petition of the children d heirs-at-law of William Van Wart, deceased, for arrears of pension imed to be due their said father, beg leave to report:

at it is alleged in the petition that William Van Wart, deceased, r of petitioners, enlisted and served during the entire war of the lution; that among other important services rendered by him was iving such information to Paulding, Williams, and Isaac Van Wart, brother,) as led to the arrest of Major Andre by them; that he was welve months imprisoned in loathsome British prison ships, and his release again joined the army, and at the close of the war honorably discharged.

1834, William Van Wart, deceased, made application to the er department for a pension, claiming a service sufficient to entitle to $96 per annum. Owing to some deficiency in the proofs pre- ed with the application, the Commissioner of Pensions decided that was entitled to but $30 per annum, and accordingly placed his e on the pension roll at that rate, to date from the the 3d of March, l. For some reason, not fully explained, the deceased never re- ed the bounty land, to which he was also entitled.

he prayer of the petitioners, his heirs-at-law, now is, that a special of Congress may be passed, giving to them the difference between per annum, the amount received by deceased, and $96 per annum, amount to which they claim he was entitled; also that they may ranted the bounty land to which he was entitled, and for which allege he applied, but did not receive.

'he petition and accompanying papers were referred to the Com- sioner of Pensions in 1852 for his examination; and in a letter d June 24, 1852, he says: "On referring to the papers on which liam Van Wart was pensioned, I find that twelve months, during ch he alleged he was detained as a prisoner, (he was twice cap- d,) were not computed in the adjustment of his pension. The imony advanced to show the duration of his captivity is not such s required by the regulations of this office. It is very clear, how- r, that he was a captive, and confined in the 'old sugar house' at

New York in 1781, and that his service, not embraced by the act of June 15, 1832, was highly meritorious. I therefore respectfully recommend that a bill be passed for the relief of the memorialists, granting them $40 per annum (the amount of pension allowed for twelve months' service) from March 4, 1831, to the period of their father's death."

In a letter of January 12, 1853, on the same subject, the commissioner reiterates the recommendation above.

There can exist no reasonable doubt but that Van Wart, deceased, was entitled to an additional $40 per annum for his services; and he having made application according to law for that amount, complying, as far as was in his power, with the requirements of the law, a mere failure, in the form or technical correctness of his proofs, did not release the government, in equity, from its indebtedness to him; and the debt not having been discharged during his life-time, is now due to his heirs-at-law. The committee therefore, in accordance with this view of the case, and with the recommendation of the commissioner, report a bill to pay the petitioners $40 per annum, from March 4, 1831, to the period of the death of their father.

In the matter of the claim for bounty land preferred by petitioners, the committee have no information beyond the declaration of the petition that it was never received. They cannot therefore make any recommendation in relation thereto.

IN THE SENATE OF THE UNITED STATES.

April 20, 1854.—Ordered to be printed.

Mr. Clay made the following

REPORT.

[To accompany Bill S. 347.]

Committee on Pensions, to whom was referred the petition of Mrs. Ann iza Childs, widow of General Thomas Childs, deceased, late of the ited States army, have had the same under consideration, and have in- ucted me to make the following report:

evet Brigadier General Childs died at Fort Brooke, Tampa Bay, da, on the 8th of October, 1853, while in the military service of ountry, of an acute disease, and not from wounds received in bat- r disease contracted from exposure in the line of duty in time of hence, his widow, the petitioner, is not entitled under any gene- w, or according to precedents of special cases, to the bounty of the nment. She prays that a general law may be passed making the provision for the support of the widows of officers of the army die in the service of the United States, that is now enjoyed by ws of officers of the navy who die in the service.

act approved 3d March, 1837, it was provided, that if any offi- seaman, or marine, die in the naval service, his widow, or if no w, his child or children, shall be entitled to receive half the hly pay to which the deceased would have been entitled accord- law, to commence from the time of the death of such officer, an, or marine; but in case of the death or intermarriage of such w, the half-pay shall go to the child or children of the deceased r, seaman, or marine; which half-pay shall cease on the death of child or children, or their attaining the age of twenty-one years.

act approved 16th August, 1841, pensions under the act of 3d h, 1837, were limited to the close of the next session of Congress after.

act of 3d March, 1845, pensions created under the act of 3d h, 1837, were revived to commence on the day from which such ons terminated, and to continue for five years; and this act has periodically renewed, so as to ensure a permanent support for the ws or minor children of deceased naval officers, seamen, or ma-

the act of February 3, 1853, provision is made for the widows ninor children of officers, musicians, and privates of the regular

army, militia, and volunteers, who died of wounds received, or diseases contracted in any of the wars since 1790; but no provision is made in case of death while in the military service of the country, unless from wounds received or diseases contracted in war.

The committee can discover no reason for the distinction now made by law in favor of the navy and against the army, or why the bounty extended to the widows and minor children of naval officers, seamen, and marines, should be denied to the widows and minor children of officers of the army and soldiers, who die in the service of the country, though not of wounds received in battle, or diseases contracted in time of war. The service on land is quite as arduous and perilous as the service at sea, and no less meritorious, and no invidious and unjust preference or partiality should be shown to either.

Neither can the committee perceive why the widow, who loses her husband in the army in time of peace, should not receive the bounty of the government like her whose husband dies of wounds received, or diseases contracted in time of war. There is no difference between the two cases in point of loss incurred, or of helplessness. The service of the husband is necessary to the government in peace as well as in war.

The committee have concluded, in order to equalize the bounties of the government, and to show the same favor to all preferring like claims to public reward or public gratitude, we should either enact a law of the character suggested by the foregoing views, or should repeal those laws, which have been herein referred to, now existing. The committee have decided to adopt the former course, and have directed me to report the accompanying bill and to recommend its passage.

The committee have been unable to ascertain, from the department to which application was made for information, what will be the probable annual expenditure incident to the proposed increase of the pension list. They provide in the accompanying bill half-pay for five years only, in which time the number of beneficiaries and the annual expense will be known, and the scheme can be suspended if it work an injury to the public interests.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 230.

IN THE SENATE OF THE UNITED STATES.

April 20, 1854.—Ordered to be printed.

Mr. Toombs made the following

REPORT.

The Committee on the Judiciary, to whom was referred the petition of Charles Stearns, have had the same under consideration, and report:

That the facts stated by the memorialist are substantially correct, and sustained by the proofs submitted.

It appears that a controversy having arisen between Colonel Ripley, in command at the arsenal in Springfield, Massachusetts, and the memorialist, touching the boundary line between the lands of the United States and those of Mr. Stearns; Colonel Ripley entered upon, and caused to be enclosed, the land in dispute, and erected thereon a shed for storing public property. Mr. Stearns protested against this summary mode of settling the controversy, and called upon Mr. Marcy, who was then Secretary of War, and sought from him an equitable adjustment of the controversy. Mr. Stearns, having failed in this attempt at adjustment, set about righting himself, and, in pursuance of that purpose by himself and persons in his employment, entered upon the premises in dispute, and removed the fence and shed which had been erected by order of Colonel Ripley; whereupon Colonel Ripley wrote to Mr. Rantoul, United States district attorney, characterizing this act of Mr. Stearns as a "high-handed trespass upon the property of the United States," and caused legal proceedings to be instituted against him by the district attorney, under which Mr. Stearns and the persons employed by him in this transaction were arrested under circumstances of great aggravation, and taken to Boston, where, after some examination before a United States commissioner, two indictments were found against them—one for riot, and the other for a "malicious trespass upon the lands of the United States." Upon the indictment for "riot" the defendants were tried and acquitted; the indictment for a trespass was continued from term to term for several terms, and then dismissed by the district attorney. The men employed by Mr. Stearns being poor, and having acted under his direction, it appears that he paid all the expenses incurred by them. From the fact that these legal proceedings were remote from the residence of the memorialist, he was put to great expense, trouble, and loss of time in attending the courts from term to term, and was compelled to lay out and expend considerable sums of money in counsel fees for

his defence, amounting in all, according to his vouchers and statements, to nearly three thousand dollars.

It is further shown that Mr. Stearns afterwards brought his action in the courts of Massachusetts against Colonel Ripley to try the title to the premises in dispute, and succeeded in establishing his right to them, and that he also brought an action against Colonel Ripley for malicious prosecution in procuring the criminal prosecutions against him for trespass and riot, upon which last action a verdict was had against Mr. Stearns, upon the ground that there was "probable cause" for said criminal prosecutions. It further appears that subsequently to the determination of the action to try Mr. Stearns' title, that the land in dispute was purchased of Mr. Stearns by an agent of the United States at double the valuation placed upon it by persons selected by the parties in pursuance of their agreement to that effect. It is also shown that, after the commencement of the criminal prosecutions, Mr. Marcy, who was then Secretary of War, upon information furnished him by Colonel Ripley, sanctioned those proceedings, and that Congress made appropriations to pay the counsel fees and costs incurred by Ripley.

The foregoing statement embraces all the facts which, in the opinion of the committee, are material for the determination of the case, and none of them are doubtful or disputed.

Under this state of facts, your committee are clear in the opinion that the memorialist is not entitled to an indemnity from Congress. It is true that he has been much injured by these proceedings, and it is not very clear that this injury was not caused by the improper and illegal conduct of Colonel Ripley, the officer in command of the Springfield arsenal. But the facts in this case make it unnecessary to inquire how far the government is bound to make reparation to the injured party for the mere wrongful and illegal acts of persons in its military and civil service. Such persons are certainly responsible for such acts to the party aggrieved in the judicial tribunals of the country, and in this case the memorialist brought his appropriate action in the district court of the United States for Massachusetts against Colonel Ripley, and it was judicially determined in that case, tried on the merits, that he had no cause of action against Colonel Ripley, and therefore cannot be entitled to damages from the United States. After this judgment of the district court of the United States upon the merits, the case of the memorialist cannot be distinguished from that numerous class occurring every day in the judicial tribunals of our country, State and Federal, in which citizens are arrested and indicted "upon probable cause," often imprisoned, and always injured in person or estate, and not convicted. The public policy of all countries has uniformly refused redress in such cases; that policy is founded in wisdom, sanctioned by experience, and ought not to be disturbed.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 231.

IN THE SENATE OF THE UNITED STATES.

April 20, 1854.—Ordered to be printed.

Mr. Jones, of Iowa, made the following

REPORT.

he Committee on Pensions, to whom was referred the petition of Seth Ingram, for arrears of pension, report:

That the petitioner was discharged from the army, in 1815, on ac-
ount of his disability, and was shortly after placed on the pension roll
seven dollars per month, to date from his discharge. In 1821 he
as required to submit to a re-examination by two surgeons of the
my, (under the act of 1819,) who reported his disability at three-
urths, and his pension was accordingly reduced to six dollars per
onth, at which rate it continued until recently, when he applied for
nother examination, and, upon the report of the examining surgeons,
s pension is now raised to *eight* dollars per month. He claims that
s disability has remained the same from the date of his discharge,
nd that he has been unjustly deprived of one dollar per month for
hree hundred and ninety-six months; and he prays Congress to pass
n act to pay him that amount.

The committee conceive that the claim has no foundation in reason
r justice. By the petitioner's own statement, it is shown that he has,
or near forty years, received a pension strictly in accordance with
aw; and only by impeaching the skill, or honesty, of the surgeons
who examined and reported on his case in 1821, when the reduction
f his pension took place, can he show that he has received any less
han he was equitably entitled to? So far from having succeeded in
his, the fact that he submitted to that reduction for thirty-odd years,
when it was his privilege at any time to ask a re-examination, if he be-
eved his disability would entitle him to more, is strong presumptive
vidence that he was satisfied, in his own mind, of the correctness and
npartiality of their report. The late re-examination, by which, after
lapse of forty years, a total disability is ascertained, is no evidence
f the incorrectness of the former report, as his disability was almost
ertain to increase with increasing years. The committee therefore
ecommend that the prayer of the petitioner be rejected.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 232.

IN THE SENATE OF THE UNITED STATES.

April 24, 1854.—Ordered to be printed.

Mr. Brodhead made the following

REPORT.

[To accompany Bill S. 349.]

The Committee on the Post Office and Post Roads, to whom was referred the petition of Joseph Nock, praying indemnity for the violation by the Post Office Department of his contract for making mail locks and keys, report:

That, in 1839, the Postmaster General determined to procure a new mail lock, so insecure had the one then in use become; and about that time his attention was drawn to an advertisement of Joseph Nock, relative to a lock for which he had just obtained a patent. Upon examination, the Postmaster General contracted for this lock, and, on the 21st of August, 1839, Mr. Nock was directed to commence making locks and keys for the Post Office Department; and, on the 18th of October of that year, Postmaster General Kendall authorized him to make mail locks exclusively for the United States service, according to the patterns shown, and also took an assignment of Nock's patent for his lock to the United States, so as to secure it, intending to use no other; and with the view of making these locks upon a *very* large scale, in compliance with his contract, and penal bond, with surety, exacted by the Postmaster General, Nock broke up his establishment in Philadelphia, and established himself in Washington city, having leased an extensive water-power for that purpose, supposing that his contract for making locks and keys would last for years, and such was the impression of others, as shown by the testimony.

Under this arrangement, a great many locks and keys were made and delivered, and paid for as delivered, up to February, 1840, at which time it was discovered that some of the locks delivered were defective, and could not be locked or unlocked with the keys intended for them, and Nock was cautioned to have them made better, as none but good locks would be received.

The evidence shows that Nock was very particular in having the work done well, and dismissed several workmen for bad work; but in a large manufactory like his, in which many workmen are engaged, locks that would not bear inspection would be occasionally made and sent to the Post Office Department; and finally, for that cause, (although other reasons *are alleged, but not* supported by evidence,) Nock's *contract for making locks and* keys was suspended by Post-

master General Niles; and on the 20th of December, 1841, Postmaster General Wickliffe refused to revive it, and directed that Mr. Nock be so informed. But the testimony shows that, even before Nock's contract was annulled, propositions had been entertained by the inspection office of the Post Office Department for other mail locks, which were afterwards consummated with other contractors; and it is charged by the friends of Nock that in this way Nock was supplanted, and his contract with the government repudiated.

After the repudiation, Mr. Nock made application to Congress for losses and damages consequent thereon. Several conflicting reports were made; and finally, by a resolution of the Senate, the case was referred to the Solicitor of the Treasury, Mr. Penrose, who, after a critical examination and hearing, and taking much testimony, reported in favor of Mr. Nock to the amount of $7,473 74.

This proving unsatisfactory, it was again referred, after a lapse of years, (in December, 1852,) to the Solicitor of the Treasury, Mr. Comstock, and, after a very laborious examination of the case, he reported in favor of Mr. Nock to the amount of $21,340 25. but recommended interest for ten years, making the amount $31,583 45.

This proving still more unsatisfactory, the case was referred at the last session of Congress to the Committee on the Post Office and Post Roads, a majority of whom agreed to a report by Mr. Foot in favor of Mr. Nock to the amount of $21,940 25. But this amount being regarded by this committee now as much too large, *they have*, for reasons entirely satisfactory to them, adopted the amount designated by the first report of the Solicitor of the Treasury, viz: $7,473 74, and have, in accordance therewith, reported a bill for the relief of Mr. Nock, and recommend its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 233.

IN THE SENATE OF THE UNITED STATES.

April 24, 1854.—Ordered to be printed.

Mr. Clay made the following

REPORT.

[To accompany Bill S. 350.]

The Committee on Pensions, to whom was referred the petition of James Worden, beg leave to report:

That the petitioner served in the navy of the United States for twelve years, on board various vessels, and became entirely disabled in said service. He was placed upon the navy pension rolls in the yea 1852, under the general provisions of the statutes, at the rate of $6 per month. He now prays an increase of pension with arrears. The committee deem it unnecessary to enter further into an explanation of this particular case. It is but one of many which, under the present unequal operation of the pension laws, discriminating against the sailor, presents features of peculiar hardship. While the soldier who does service on land, and becomes disabled in the line of his duty, is, under existing laws, allowed a pension equal to his full pay, the sailor, whose service is none the less arduous, whose perils in battle, and at all times, from the treacherous element upon which his duty requires him to make his home, are equally great, and whose pay is but little higher, is allowed but a half-pay pension, even in cases of total disability. This disc imination against that brave and meritorious class of men who protect our commerce, extend its relations, and everywhere, throughout the world, sustain the honor of our flag, and defend the rights of our citizens, not to advert to the imperishable renown they have won in the various contests of the country with other powers, is, in the opinion of your committee, most unjust and impolitic.

The Commissioner of Pensions, under date of 19th January, ultimo, in a letter addressed to the chairman of the committee, says:

"The laws granting and regulating navy pensions, (April 23, 1800, sec. 8; and August 23, 1842,) allow pensions not exceeding one half the monthly pay [illegible] to the pay of the navy, as it existed on the 1st [illegible] marine, at that time, was $7 per month," [illegible] nary seaman, $10;) and the pension [illegible] g laws, is half of these respective

[illegible] be found in cases where disability [illegible] ving with the army in Mexico. In [illegible] of August 10, 1848, and the opin-

ion of Attorney General Toucy, (Mayo, page 460,) a marine woul receive the same pension as a soldier for full disability, $8 per month.

* * * "It may not be improper for me to advert to the dis crimination, under existing laws, between the pension of a soldier an a marine. While both may be disabled under equally meritorious ci cumstances, for full disability the soldier is allowed $8, the marine onl $3 50 per month."

In a communication of the 28th ultimo, transmitting a list of pe sioners now upon the rolls that would be increased under a general la placing invalids of the navy and marine corps upon the same footin as those of the army, the commissioner says:

"The effect of such a bill wil. be to increase the pensions of 394 i valids now upon the rolls, in the aggregate, annually $9,567 45."

Your committee are of opinion that this unfair discrimination is reproach upon the justice and gratitude of the country due to the ga lant tar, who is disabled in her service, which cannot be too soo removed; and they therefore herewith report a bill for an act placi the pensioners of the naval service upon the same footing as those the army; and ask to be discharged from the further considerati of the petition of James Worden, herewith returned.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 234.

IN THE SENATE OF THE UNITED STATES.

April 25, 1854.—Ordered to be printed.

Mr. Evans made the following

REPORT.

The Committee on Revolutionary Claims, to whom was referred the memorial of Margaret Barnitz, sole heir of Lieutenant Colonel David Greer, beg leave to report:

There is no doubt of the fact that Colonel Greer was appointed lieutenant colonel of the (7th) seventh Pennsylvania regiment, in the army of the revolution. His commission, signed by the President of Congress, as well as his prior commissions as captain and major, and his recruiting instruction, signed by General Washington, are among the papers exhibited to your committee. It also appears that he was in the service of the country anterior to the Declaration of Independence, for his commission as captain bears date the 9th of January, 1776. At the battle of Paoli, which took place some time in 1777, he was severely wounded, so as to disqualify him for active service. Afterwards, (but so far as is believed from the evidence,) without resigning his commission, and with the approbation of the government, he acted as superintendent of the quartermaster's department at York, where large bodies of troops were occasionally collected, and which was also a depot for prisoners of war, large numbers of whom were kept at that place. This service he continued to perform, as stated by the witnesses until the end of the war. During this service, as appears by his accounts exhibited to the committee, money of the government to the amount of many hundreds of thousands of dollars, were expended by him. One of his accounts, settled by John Davis, quartermaster general, shows an expenditure of $224,711, in which a balance is stated of $30,345 as due to him on the 3d of October, 1780. His accounts, as exhibited, come down to January, 1782, and the evidence of the witnesses make it very clear that he continued to act until the end of the war. If he had resigned his commission in the line of the army, and had received an appointment in the quartermaster's department, he would not be included within the resolution of the 20th of October, 1780, allowing half-pay for life, and the resolution of 1833, giving commutation in lieu thereof. But having been in the army as a colonel, and there being no evidence of his resignation, the committee do not perceive from the fact of his performing duty in the commissary department any inconsistency with his retaining his rank in the army; excused from active service on account of his wounds. As a confir-

mation of the fact that he did not resign, but was still regarded by himself as a lieutenant colonel in the line, is a statement of the account of Captain McDowell, which is marked: "This account settled this 20th of March, 1778," and signed D. Greer, lieutenant colonel. This was at a period subsequent to his wounds at the battle of Paoli. The committee are satisfied that he retained his rank in the army, although by permission he performed other services, as in the case of General Hamilton, who retained his rank whilst he was a member of Congress, in 1782, and other cases in which the right to half-pay was allowed, although the officer performed other duties.

The case of Colonel Greer comes within the provision of the bill now before the Senate, to provide for the payment of the claims of the officers of the revolutionary army, and for that reason your committee do not report any bill to provide for the memorialist.

But the memorialist also claims a balance as due to Colonel Greer, for money expended by him for the use of the government. It appears from the books of the treasury that a balance of $1,174 15 stands to his credit. But the account is with him as lieutenant colonel, in 1777. Your committee think it unlikely that Colonel Greer would not have reimbursed himself for that sum out of the large amounts which afterwards came into his hands, whilst in the quartermaster's department. His accounts in that department were never settled. His settlements seem to have been made with Davis, the quartermaster general, to whom his receipts and vouchers were delivered, and this the committee regard as a further evidence that he still retained his commission as colonel, but acted as an assistant in the commissary department.

They therefore recommend that this claim should not be allowed, but they are clearly of the opinion that he was entitled to the half-pay for life as the commander.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 235.

IN THE SENATE OF THE UNITED STATES

April 25, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of C. C. Beatty, son and executor of Reading Beatty, deceased, beg leave to report:

That the petitioner states that his father was a surgeon of artillery during the war of the revolution, and served to the close of that war; and received land and commutation under the resolves of October 21, 1780. After the passage of the act of May 15, 1828, his father was pensioned at the rate of $480 per annum; which amount he received to the date of his death, October 29, 1831. After the passage of the act of July 4, 1836, which provides that widows of officers, &c., of the revolution, whose marriage took place before the expiration of the last period of their husbands' service, shall be entitled to the same pension the husbands might have received by virtue of the act of June 7, 1832. Petitioner's mother applied for a pension as the widow of Reading Beatty, deceased, and her name was inscribed on the rolls at $600 per annum, which she received to the time of her death. The petitioner claims that the phraseology of the law of June, 1832, under which his mother received $600 per annum, is the same as that of the act of May, 1828, under which his father was allowed but $480 per annum, and that therefore he is entitled to receive the difference, $120 per annum, from 1828 to 1831.

It is true that the terms of the two acts cited are similar: each provides a pension equal to the full pay of the pensioner while in the service; *provided*, that no person shall receive a larger sum under its provisions than "*the pay of a captain in said line*," (meaning the continental line.) The pay tables show that the pay of a captain of infantry, at the close of the war in 1783, was $40 per month, or $480 per annum; while the pay of captains of artillery, cavalry, &c., was $50 per month, or $600 per annum. In administering these laws the department seems to have based its construction of the act of 1828 upon the pay of the infantry, and of the act of 1832 upon the pay of the other branches of the service. Both constructions are consistent with the terms of the two laws; and their inconsistency with each other is only referable to a common difference of opinion existing among the executors and interpreters of law, and to the indefinite character of the terms

used in the acts. The committee cannot recognise the justice of the claim presented; and being, also, unwilling to disturb a construction under which so many cases have been satisfactorily adjusted, and thus re-open all such cases to be re-adjudicated under a subsequent construction, more favorable to claimants, but not more consistent with the law, they recommend that the prayer of the petitioner be rejected.

ɪd CONGRESS, 1st Session. [SENATE.] REP. COM. No. 236.

IN THE SENATE OF THE UNITED STATES.

APRIL 25, 1854.—Ordered to be printed.

Mr. ALLEN made the following

REPORT.

he Committee on Pensions, to whom was referred the petition of Catty White, widow of William White, deceased, for arrears of pension, beg leave to report:

That the petitioner is now on the list of pensioners, at the rate of 320 per annum, for services rendered by her husband in the war of e revolution. She prefers a claim to an increase of pension and rears upon grounds which could not be allowed by the Commissioner Pensions, under the decisions in other similar cases. The committee not deem the case one that calls for the special interference of Coness, and therefore recommend the adoption of the following resolun:

Resolved, That the prayer of the petitioner be rejected.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 237.

IN THE SENATE OF THE UNITED STATES.

April 25, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Hiram Upson and others, of Warwick, New York, praying that pensions may be granted to the children of officers and soldiers who were killed or died in service during the revolutionary war, and whose mothers would have been entitled to pensions had they survived; also, the petition of widows of soldiers and seamen of the revolution, who were placed on the pension roll by the act of July 7, 1838, *and continued by subsequent acts, praying to be allowed pensions from March* 4, 1841, *to March* 4, 1843, *during which time they were omitted, beg leave to report:*

That, in their opinion, neither justice or expediency demands a compliance with the prayers of the petitioners. In reference to the first petition, it may be said that it demands of Congress a recognition of a hereditary claim to the benefits of the pension system, against which legislation seems to have heretofore carefully guarded—limiting any claim of that character, in absolute terms, within well-defined bounds.

The second petition, above recited, prefers a claim where none can possibly exist. The original act under which the class of persons here petitioning were placed on the pension rolls, provided that they should receive half-pay for *five years* only. By subsequent acts, purely of bounty, this half-pay has been continued to them from year to year, and from time to time, with the exception of the omission of three years, as set forth in the petition. The committee think that it would be inexpedient to set now the precedent of going back upon the track of congressional legislation relative to pensions, in order to supply omissions of this character, or to include periods of time, or classes of persons, within the provisions of laws from which they are, by omission, or in terms, excluded, especially when uncalled for by any reason founded in equity.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 238.

IN THE SENATE OF THE UNITED STATES.

April 25, 1854.—Ordered to be printed.

Mr. Seward made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Jane Beccannan, report:

That the petitioner alleges in her petition that she is the widow of Philip Beccannan, who served under the Marquis de Lafayette in the revolutionary war. She applied in 1852 to the Pension Bureau to be placed on the pension rolls, but her application was rejected by the Commissioner, on the ground that her husband was a foreign soldier, for whom no provision was made in the general statutes. Upon appeal to the Secretary of the Interior, the decision of the Commissioner was confirmed. In the past legislation upon this subject, care has been taken, in express terms, to exclude foreign soldiers serving as our allies in the revolution from the provisions of the pension and bounty-land laws; probably because, being in the employ and pay of a foreign power, they were entitled to all the benefits of the laws of that power providing bounty and pension for its army. For this reason, also, a general bill providing for such is deprecated by the Commissioner; nor do your committee think it would be expedient to provide by special legislation for particular cases. They therefore recommend that the prayer of the petitioner be rejected.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 239.

IN THE SENATE OF THE UNITED STATES.

April 25, 1854.—Ordered to be printed.

Mr. Seward made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of the heirs of Nathan Daggett, report:

That the claim is for pension on account of services rendered by said Daggett, deceased, in the revolutionary war. The claim was first presented to Congress in 1818, and being then rejected, has been persisted in, and represented on several subsequent occasions, and in no instance, as far as the committee can ascertain, has a favorable report been made. In 1844, the Committee on Revolutionary Claims reported adversely upon it, and the report was concurred in. On examining the papers, the committee find that the purported "additional evidence" upon which it is now referred to them, is a mere duplication of evidence already passed upon by former committees. The petition is therefore improperly before the committee, and on that ground, as well as from the apparent utter want of merit in the claim itself, they recommend the adoption of the following resolution:

Resolved, That the claim of petitioners be rejected.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 240.

IN THE SENATE OF THE UNITED STATES.

April 25, 1854.—Ordered to be printed.

Mr. Cooper made the following

REPORT.

The Committee on Revolutionary Claims, to whom was referred the memorial of William L. Meredith, the son and only heir of Major William Meredith, late of Edmonson county, in the State of Kentucky, beg leave to report:

That it appears from the testimony, that the said William Meredith was a captain in the revolutionary war, and that he served, if not from the beginning, from a period shortly after the beginning, to the close of the contest; that he was in a number of battles, having fought under Wayne, at Stoney Point; under Washington, at Germantown and Monmouth; and Gates, at Camden, where he was taken prisoner. From this period he remained a prisoner, in the hands of the enemy, until the close of the war, when he was exchanged. It appears, also, that he was entitled to, and received, the commutation in pursuance of the act of Congress, and that he likewise received a pension, which was paid to the time of his death, on the 20th of February, 1833.

Under these circumstances the memorialist asks for the difference between the amount of commutation received by his father and half-pay for life; and he refers to the act of Congress, passed for the relief of Miss Charlotte Lynch, as a precedent in support of his demand.

While the committee do not deny the existence of the precedent to which the memorialist refers, they are not prepared to regard it as a rule for the future action of Congress in all similar cases. Looking to the legislation of Congress making provision for the officers and soldiers of the revolution, they find no act which would authorize them in the allowance of the claim of the memorialist; they therefore ask to be discharged from the further consideration of the subject.

IN THE SENATE OF THE UNITED STATES.

April 24, 1854.—Ordered to be printed.

Mr. Cooper made the following

REPORT.

[To accompany Bill S. 353.]

The Committee on Revolutionary Claims, to whom were referred the petition and papers in the case of the representative of Henry King, have examined the reports made to the Senate by Mr. Jarnagin, on the 12th of February, 1845; *again reported by Mr. Dodge, on the 8th of March,* 1850; *and again by Mr. Foot, on the 20th of February,* 1852, *with a bill, No.* 235, *which bill, after striking out the interest allowed in it, passed the Senate on the 13th day of August,* 1852.

The committee adopt the report above named, and report a bill for the relief of the petitioner.

In Senate.—February 12, 1845.

The Committee on Revolutionary Claims of the Senate, to whom was referred the claim of Henry King's representative, for compensation for services by him during the war of the revolution, report:

That said claim is in the form of an account, showing that said King served as a sergeant in the third Maryland regiment, from the 30th May to the 20th October, 1778, at $10 per month; as commissary's clerk, from 21st October to 31st December, 1778, at $35 per month; as same, from 1st January, 1779, to 19th April, 1780, at $50 per month; as assistant commissary of issues, from 10th May, 1780, to the 10th September, 1781, at $75 per month, and for a retained ration during a small part of the above period, which latter item is £8 15*s.* The total is £862 10*s.* The United States are credited with various payments during that time, amounting to £180 18*s.* 8½*d.*, the principal of which was made by the State of Maryland of £162 18*s.* 6½*d.*, leaving a balance due King of £681 10*s.* 3½*d.*

This claim was presented to Congress for settlement on the 5th March, 1794, and referred to a committee, whose report is as follows:

"The committee to whom was referred the petition of Henry King, late commissary *of provisions in the* southern department, report, that

they find, on examination, that the petitioner has an authentic and well-attested claim on the United States; but, not having made a timely presentation of it, the act of Congress of the 23d July, 1787, is a bar to its admission. The committee lament that any obstacle should arise to prevent the immediate adjustment of a claim which appears to be sanctioned by every equitable and just principle; but as the payment of the one referred to their examination would be an act of partial justice, they hesitate to recommend it, unless a provision for all demands similarly situated should be deemed an act of propriety."

The Hon. Thomas Sprigg, chairman of that committee, in a letter to Mr. King, dated April 23, 1794, uses the following language, accompanied by a copy of the report:

"After several meetings of the committee to whom your petition was referred, and a full examination of the vouchers, we were unanimously of opinion that your claim was just. They requested me to write the report, and to express in strong terms the sense of the committee. The enclosed copy will show you what their opinions were. It is handed in, and has been read, but not taken up, nor do I expect it will be this session. There are such numbers under similar circumstances, that will take up much time to decide on them."

King, living in Kentucky, at a distance from the seat of government, made no further movement in the claim until 1817, when he again petitioned Congress for payment. His petition shows that his original papers had been destroyed when this capital was taken, in 1814; and such copies of them as he had preserved were filed. A statement from Mr. Hagner, dated 8th January, 1842, states that all the papers connected with the settlement of such accounts as King's were "no doubt destroyed in the burning of the Treasury buildings."

As additional evidence, King's representative has filed a certificate from the register of the land office in Maryland, dated 25th January, 1841, in which he says:

"The office of auditor general was a few years ago abolished, and the records and papers of the revolution placed under my charge. I have carefully examined them, and send you herewith, enclosed, a certificate from the muster rolls and army leger, which is all the evidence they afford of the service of Henry King. The records of the revolution are imperfect; most of the accounts of the commissaries, and other papers, were sent on to the general government many years ago, for the purpose of adjusting and settling the accounts between this State and the general government, and they were never returned; I have understood they were destroyed in the late war."

Enclosed was the following certificate:

"I certify that it appears, from the musters of Maryland troops, that Henry King enlisted on the 25th May, 1778, as a sergeant in the third regiment, and was transferred to the commissary's department in October, 1778."

Several depositions of soldiers who served with King are also filed in the case.

Jeremiah King, a brother of the petitioner, states that they both entered the 3d Maryland regiment in 1778, then belonging to General Smallwood's brigade; that some time in the fall of the same year

Henry King was sent to join John Else at Fishkill landing, as assistant commissary, which he continued in until the year 1780, when he, as commissary, was sent with General Smallwood's command to join the southern army; that he received letters from his brother while in the southern army, and that from his letters, and afterwards in conversation with his brother, he learned that his official papers had been all destroyed while in the south. That he knew Adam Jamison, who was a deputy commissary general in the army, under General Smallwood. The deponent's character is shown to be such as entitles his statement to full credit.

John Jacobs proves that King served as assistant commissary in the southern army, under General Greene, until September, 1781, he himself belonging to the same corps. Peter Brumback, another soldier in the same army, proves the same fact.

An order from General Smallwood to King, addressed to him as commissary, dated 7th October, 1780, and three letters from Adam Jamison, who signs his name "D. C. G., of issues," dated in February, 1781, all addressed to King as "A. C., of issues," on official business connected with that office, and which are proved to be genuine, are filed.

The resolution of Congress of the 11th May, 1779, allows pay as follows: "That the assistant commissaries of issues, at every magazine, post, or brigade of the army, be allowed $90 per month; and the clerks of the commissary general, and deputy commissary general of issues, the sum of $80 per month."

The House of Representatives, in April, 1818, when acting on this subject, reversed a report of its committee unfavorable to this claim, and passed a bill directing its payment; but, from the lateness of the session, it was left among the unfinished business. King died in Kentucky, in 1820, and no execution of his will was had until 1835, when this claim was again presented It has been pressed at various periods from that time to the present, without any final action upon it by Congress.

Upon mature consideration of this claim, your committee are compelled to sustain it, and recommend its immediate payment. For more than fifty years it has been pressed. It was presented in an "authentic and well-attested form" in 1794, and payment was evaded only because of the existence of the statute of 1787, barring all claims in the commissary department, if not presented within eight months from its passage—a notice altogether too short for justice, even if the claimant had not resided in the western country, where communication was at that time limited and slow. But Congress since that time has repeatedly disregarded those bars of its own creation, when justice required it. In this case, the original papers having been burned, they have been substituted as far as possible by others, which are in themselves satisfactory, but more so, when taken in connexion with the fact of claim having been made as early as 1794, and then accompanied with sufficient vouchers, which have been since destroyed while in the archives of the nation.

Should the amount due the petitioner bear interest, and if so, from what period? *This committee believe* that it should bear interest from

the time of its presentation, in 1794. It was due for thirteen years previous; and according to strict justice, perhaps, interest should commence at the time it became due. But no good reason or principle can be urged against its allowance from the time it was presented for payment, if that payment was withheld by the government. In the case of Russwurm's heir, the Senate at its last session allowed interest on a claim of no greater merit, and permitted to commence long anterior to the time of its presentation, because the demand was not made, in consequence of the heir being ignorant of his right, until informed of it in 1837.

The committee therefore report a bill for the relief of the representative of Henry King.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 242.

IN THE SENATE OF THE UNITED STATES.

April 25, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

[To accompany Bill S. 354.]

The Committee on Pensions, to whom was referred the petition of Nancy Bowen, also the petition of Sarah Larabee, widows of soldiers, beg leave to report:

That in the case of Mrs. Nancy Bowen, this committee has, on two former occasions, made a favorable report, accompanied by a bill for her relief. The report of February 25, 1852, sets forth the facts and views of the committee, and they therefore adopt it as part of this report, as follows:

In Senate.—February 25, 1852.

The Commmittee on pensions, to whom was referred the petition of Nancy Bowen, report:

That the petitioner's first husband, Robert Brice, was a seaman on board of the frigate Constitution, and was killed in the action with the English frigate Guerriere. As his widow, she received for ten years a pension of seventy-two dollars per annum, when she became the wife of Aaron Bowen, and her pension ceased by law. Bowen died in 1848, leaving her in a destitute and helpless situation, aged, infirm and childless; and she therefore prays for a renewal of the pension allowed to her previous to her second marriage.

The Committee on Pensions, on the 20th of May, 1850, made a report to the Senate, accompanied by a bill for the relief of the petitioner. In concluding that report, the committee say: "Without expressing an opinion upon the subject, the committee have agreed to report a bill for the relief of the petitioner, leaving it to the Senate to sanction or disapprove the principle involved."

The committee deem it proper at this time to state, that after giving the subject due consideration, they entertain the opinion that it is just and proper in cases like this, where the widow has been left in a destitute and helpless condition, to renew the pension; and they herewith report a bill for her relief.

The case of Sarah Larrabee, former widow of Barston Newall, also herewith reported, presents the same general state of facts, with the exception that the petitioner, nor her husband, ever drew a pension. On application to the pension bureau, she was informed that her case was barred by her second marriage, notwithstanding she was a widow at the time of her application. The committee consider both these cases as meritorious, and as they are deprived of the benefits of existing laws only by a too stringent construction, they deem it proper to report a bill providing for their relief.

And as this class of petitioners for the benefits of the pension system have been, and will continue to be, provided for by special acts of Congress, if the construction of the general statutes be not so changed as to include them; and as the committee are clearly of the opinion, that it was the design of Congress to do away with the construction which made the second marriage a permanent bar to any claim of a widow for pension, as shown in the act of August 23, 1842, in which it is declared that the second marriage shall be no bar, provided the applicant be a widow at the time she makes application for a pension; (referring to revolutionary cases,) they therefore report the accompanying resolution, for the consideration of the two Houses of Congress.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 243.

IN THE SENATE OF THE UNITED STATES.

April 26, 1854.—Ordered to be printed.

Mr. Hamlin made the following

REPORT.

[To accompany Bill S. 356.]

The Committee on Commerce, to whom was referred the petition of George Dennett, asking for compensation for services performed while he was naval officer at Portsmouth, New Hampshire, respectfully report:

That the said George Dennett was appointed naval officer for the port of Portsmouth, in the State of New Hampshire, and that he took the oath prescribed by law, and entered upon the discharge of his official duties on the 13th day of March, 1839. It also appears, from the memorial and a letter from the Secretary of the Treasury, that the said office of naval officer was vacant from the 18th day of December, 1838, until the 13th day of March, 1839, when the said Dennett was appointed and entered upon the discharge of his duties as aforesaid. It therefore became the duty of said Dennett, after he had entered upon the duties of his office, to complete and bring up the arrearages of business for the time it was vacant, and for that he has received no compensation; and in pursuance of the recommendation of the Secretary of the Treasury, and from the fact that, in the opinion of the committee, the said Dennett is justly and equitably entitled to a compensation for that service, the committee report a bill for his relief, which is herewith submitted.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 244.

IN THE SENATE OF THE UNITED STATES.

April 26, 1854.—Ordered to be printed.

Mr. Jones, of Iowa, made the following

REPORT.

[To accompany Bill S. 357.]

The Committee on Pensions, to whom was referred the petition of Jacob Stoll, beg leave to report:

That the petitioner, who was a soldier of the regular army, and served faithfully and with distinction in the Florida war, and was disabled by a serious wound in the thigh, in the battle of Whitlacoochee, did, in the month of July, 1845, make application to the Pension Office for an invalid pension, and forwarded to said office certificates of Captain Drane and Surgeon Abadie, showing his services and disability. Hearing nothing from his application, he went in person to the office, and was informed that no such papers as those he had forwarded could be found, and that it would be necessary for him to send duplicates, and make a new application. Owing to the distant service and circumstances of his former officers he was not able to obtain duplicates until within this year, when, upon a re-examination of his case by a medical board, he was placed on the pension rolls, at the rate of $6 per month. He claims that he was deprived of his pension, to which the late action of the Pension Bureau proves he was entitled, by the carelessness of the clerks or employees of said office, in 1845, and from that year to the present time. The fact of his papers having then been duly forwarded in 1845, is proved by the affidavit of John Hammond, accompanying the papers, and that upon those papers, if properly examined, he would have been allowed a pension, is proved by the recent action (shown by accompanying papers) of the Pension Office. Your committee are therefore of the opinion that the petitioner is justly entitled to receive the amount of his pension from 1845 up to the time his application was allowed by the commissioner, and they therefore herewith report a bill to that effect.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 245.

IN THE SENATE OF THE UNITED STATES.

April 27, 1854.—Ordered to be printed.

Mr. Everett made the following

REPORT.

[To accompany Bill S. 358.]

The Committee on Foreign Relations, to whom was referred the memorial of Henry Cronchey, lately employed as a clerk in the office of the United States legation in London, have had the same under consideration, and submit the following report:

Mr. Cronchey was for several years employed as a clerk in the office of the United States legation at London, at a very low rate of compensation. Early in 1853, the President authorized his allowance to be raised for the whole period of Mr. Lawrence's mission; but, even after this increase, it amounted to but about five hundred dollars *per annum*. In consequence of the greatly augmented business of the legation, the Secretary of State, at the last session of Congress, recommended an appropriation of eight hundred dollars as the salary of a permanent clerk at London; and owing to the great satisfaction which Mr. Cronchey had given to several successive ministers, by the assiduous and punctual performance of his duty, it was privately and unofficially intimated to him that it was the wish of the department that he should be employed on the permanent foundation. Mr. Cronchey represents that the confident expectation that he should be thus employed, prevented his obtaining places under the British government, for which he was well qualified and highly recommended.

The Department of State having, in the course of the last year, come to the resolution not to authorize the employment, in the offices of our ministers and consuls abroad, of any persons not citizens of the United States, Mr. Cronchey's connexion with the legation at London necessarily ceased; and one object of his memorial is to solicit from Congress indemnification for the loss which he has sustained in consequence of having given up prospects of employment elsewhere, in the expectation of remaining in the office of the legation at London. The committee regret that Mr. Cronchey should have been disappointed in his expectations; but they cannot find in this circumstance any foundation for a claim to be indemnified by the United States. All persons taking employment in the public service necessarily take it with the risks of discontinuance, to which it is liable; and this risk must, of necessity, be more than *usually great* in cases of employment under a foreign *government*.

Mr. Cronchey further sets forth that he performed all the clerical duties of the office of secretary of legation at London from the 11th of December, 1852, the date of the resignation of Mr. Davis, to the 31st of January, 1853, when Mr. Trescot, the successor of Mr. Davis, arrived; and from the 1st of May, 1853, when Mr. Trescot resigned, to the close of Mr. Ingersoll's mission, on the 24th of August—in all 168 days. The committee are satisfied that this statement is correct, and that a great amount of extra labor devolved upon Mr. Cronchey at this time, which could only have been performed by him at extra hours, and which could not have been dispatched at all but for his familiarity with the business of the office. Mr. Ingersoll certifies to the satisfactory manner in which the laborious duties thus devolving upon Mr. Cronchey were performed by him, and that at a season of the year when the labors of the office, owing to the number of passports to be issued or countersigned, are the heaviest. Under these circumstances, the committee are unanimously of opinion that it would be just to allow Mr. Cronchey the sum of one thousand dollars, in addition to his pay as clerk, in compensation for the extra services performed by him in the office of the legation, and they report a bill accordingly.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 246.

IN THE SENATE OF THE UNITED STATES.

May 2, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

[To accompany Bill S. 359.]

The Committee on Pensions, to whom was referred the petition of Elizabeth Summers, widow of Cornelius Summers, for bounty land, beg leave to report:

That it is shown by the certificate of the Third Auditor of the Treasury, accompanying the petition, that Cornelius Summers served in the war of 1812, was paid for eight months twenty-eight and one-half days' service, and was honorably discharged. The act of September 28, 1850, provides that any person serving in that war, who enlisted for twelve months, or during the war, and actually served nine months, shall be entitled to 160 acres of land.

The application of the widow for land in this case was admitted for 80 acres, the amount allowed for *four months' service*, but as she failed to prove nine months' service by "one day and a half," and also failed to prove that her husband *enlisted* for twelve months, 160 acres could not be allowed her by the Commissioner of the General Land Office.

She now prays Congress to pass a special act granting her 160 acres of land for her said husband's services, alleging in her petition that he was in captivity after Dudley's defeat for some time, how long she does not remember, and that he served as a substitute for one Gray a term of six months, from 1st March, 1814, to the 1st September of the same year, making in all over one year. These latter statements, however, are not proved by any papers presented with the petition. The service proved by the certificate of the Third Auditor, (being within one and a half days of the term of nine months,) taken together with the strong probability of further service, seems to your committee to make this a case justifying the special action of Congress in behalf of the widow.

They, therefore, report a bill.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 247.

IN THE SENATE OF THE UNITED STATES.

May 2, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

[To accompany Bill S. 360.]

The Committee on Pensions, to whom was referred the petition of John McVey, report:

That the petitioner claims to have served in the Kentucky volunteers, under General Shelby, in the war of 1812–'14. And during his tour of service became disabled, or wounded, in replacing the puncheons on the bridge over the river Thames, which had been removed by the British, by having the flesh torn severely on the inside of his left ancle, and the bone crushed. From this wound he has never recovered. The ancle became stiff and enlarged, and a running sore broke out on his leg, of a very malignant character, affecting his general health. Dr. J. Custer certifies to the present painful and severe character of the sore, and further states, that should a cure of the sore be effected, McVey will still be a cripple, owing to stiffness of joints, and enlargement of the foot resulting from it.

Such is a fair statement of the case as presented by the petitioner and his physician. Of the alleged services of the petitioner, there is no evidence offered, save his own statement and the hearsay proof contained in a petition in his behalf, numerously signed by citizens of Arkansas. No evidence of his enlistment, service, or discharge, can be found on the rolls on file in the pension office, nor elsewhere within the search of the commissioner or the committee. The committee are therefore compelled to agree with the commissioner, who has disallowed the claim, on the ground that the proof of service is entirely insufficient. Dr. Custer only testifies as to petitioner's present condition. His reputation and skill as a physician are certified by the clerk of the court for Hempstead country, Arkansas. It seems by the endorsement of the clerk of the Senate upon the petition, that it was before the committee in 1852, and a bill was reported in accordance with its prayer; but as no written report was submitted, the committee are not now aware of the grounds upon which the bill for his relief was based, and suppose it to have been merely reported, without any recommendation, for the consideration of the Senate. The bill, however, passed the Senate, but failed in the House. In view, therefore, of the former action of the committee and the Senate, notwithstanding their clear convictions of the insufficiency of the proofs in the case as presented to them, the committee herewith report a bill, for the consideration of the Senate.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 248.

IN THE SENATE OF THE UNITED STATES.

May 2, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

[To accompany Bill H. R. 178.]

The Committee on Pensions, to whom was re-committed H. R. 178, *for the relief of Benjamin Rour, beg leave to report:*

That when this bill was before under consideration, the committee came to an adverse decision in regard to it, and submitted an adverse report, (on the 23d February last,) in which they set forth their reasons as follows:

"Among the papers accompanying the bill, the committee cannot find any evidence of an official or record character to prove his enlistment, service, or discharge, as a soldier of the United States; neither is the absence of such proof accounted for, &c."

Among the papers as re-committed to them, the committee find the proof before wanting amply supplied in a copy of the discharge of said Latham, properly certified by Hon. F. Burt, Third Auditor of the Treasury; in which the facts of his enlistment, captivity, &c., are fully and satisfactorily stated. With this addition to the evidence, they are satisfied to concur in the views of the committee of the House, and recommend that the bill do pass.

IN THE SENATE OF THE UNITED STATES.

May 2, 1854.—Ordered to be printed.

Mr. Evans made the following

REPORT.

[To accompany Bill S. 361.]

The Committee on Revolutionary Claims, to whom was referred the petition of Frederic Vincent, administrator of James Le Caze, surviving partner of Le Caze and Mallet, respectfully report:

That Le Caze and Mallet were merchants of Philadelphia. In the year 1783 the government had dealings with them to the amount of $75,584 74. This amount was settled by the then Superintendent of Finance, and a balance was stated in their favor of $4,890 82. This settlement and balance were entered on the books of the treasury of that date, and afterwards transferred to the books of the treasury in the year 1794, after the present government went into operation, as appears by the certificate of the Register which accompanies the petition.

Before any provision had been made for liquidating and funding the public debt, Mallet died, and Le Caze, the surviving partner, whilst on a visit to his plantation, in the Island of St. Domingo, was massacred in the insurrection which broke out in 1789. During the general insurrection in 1793, his family escaped from the island and settled in Norfolk, in Virginia.

There was no administration on the estate of Le Caze, until the year 1844, when the petitioner, Frederic Vincent, a relative of Le Caze's family, took out letters of administration in the city of Philadelphia, until which time it is likely the existence of the evidence of this debt was unknown to the family of Le Caze.

There is not a shadow of doubt that this debt is due, and ought to be paid. The only doubt is whether it ought not to be paid with interest. By the resolution of July 3, 1784, Congress promised that an interest of six per cent. per annum shall be paid to all creditors of the United States for supplies furnished or service done, from the time that payment became due. There does not seem to have been any uniform rule practised in relation to interest, sometimes it has been allowed, sometimes refused, and many of the acts are silent on the subject.

In relation to these antiquated demands, as far as can be ascertained from the acts of Congress, few have been paid with interest since 1836. As a general rule these demands have not been paid because they have not been *presented. It is a fair* presumption that the government is

able and willing to pay every just demand. If they have been suffered by the claimants to lie dormant, as this case has, for more than sixty years, they should be satisfied to receive the principal. If they lose the interest it is the result of their ignorance or misfortune. But when a clear and undisputed claim is presented it should be instantly paid, and if not paid it is the fault of the government, and from that time interest ought to be paid.

Your committee are disposed to consider claims of this description as due on demand, and to place them on the same footing as private debts, payable on demand, which do not bear interest until payment is requested. This will mete out to the creditor of the public the same measure of justice which the law exacts from a private debtor to his creditor. The committee report a bill for the relief of the petitioner.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 251.

IN THE SENATE OF THE UNITED STATES.

May 2, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Benjamin Burton, son and administrator of Sarah Burton, deceased, beg leave to report:

That this case, which is a claim preferred by Benjamin Burton for the amount of pension to which his mother would have been entitled under the act of the 4th July, 1836, had she applied for its benefits and properly proved her right thereto in her lifetime, was before the committee and reported against on the 16th of January last. It is now re-referred, with copies of the testimony as presented to the Pension Bureau. The committee find nothing in the papers to change their former adverse conclusions in the case. The 3d section of the act of July 4, 1836, contains the only provisions under which the widow could have claimed (her husband having died in 1829) while living, and there is not in that section, or in any other of the law, the slightest ground upon which to found a claim after her death, she never having made application under the act in her lifetime. And the committee will at all times sustain the bureau in the rejection of this class of cases, where a claim is preferred to the benefits of a law by the heirs of those for whose benefit it was solely intended, and where those who might have claimed under its provisions failed or neglected to meet its conditions in the matter of application and proof during their lifetime.

The committee will insist upon this construction of this and every other act relative to pensions, unless the contrary is explicitly and in terms declared that the *benefits* of the pension system *were designed exclusively* to reach, 1st. Those who performed the service; 2d. Their widows; 3d. Their orphan children, under 16 years of age; and that beside these three classes, no other person, or persons, can, by any construction of law, unless expressly declared, have any claim to a single cent of government bounty under the pension laws. But if it can be shown that any of these three entitled classes did, in their lifetime, *make application in the form and with the proofs required by law*, and thereupon were disallowed, or in any way were deprived of the pension they had thus legally acquired a right to, then the amount of which they were so deprived, without authority of law, may be regarded as assets, and be lawfully claimed by their heirs-at-law. In the case now in hand, there never having been, as shown by the papers, any application made by

the person who performed the service, by his widow, or by any of his minor children, the claim has expired with the lives and minority of these persons, who, under the law, were alone entitled.

The committee, therefore, recommend the adoption of the following resolution:

Resolved, That the petition of Benjamin Burton, administrator of Sarah Burton, deceased, who was the widow of May Burton, deceased, for pension for the services of said May Burton, be, and is hereby, rejected.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 252.

IN THE SENATE OF THE UNITED STATES

May 2, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of James Steward, report:

That, upon the statements of the petitioner himself, they are bound to report adversely to his claim, as having no foundation in justice, law, or common sense. The whole story is this: In September, 1814, he was drafted as a private in a militia company, and on the 8th of the month commenced service, marching on that day from Delhi, N. Y., for the city of New York, where he served until the 26th of September, (eighteen days in all,) when he hired a substitute, paying his substitute $30 and his wages from the day he was mustered into service, amounting, in all, to about $35. On the 29th he reached home, having been out twenty-one days, and expended, including his wages and the $30 paid to his substitute, about $40. He prays that a bill may be passed to refund to him, with interest from 1814, this $40 which it cost him *to avoid serving his country;* and the only plea having a shadow of reason which he offers is, that he at one time was in possession of a certificate exempting him from military duty, on account of a cutaneous disease; which certificate he did not exhibit until three days after he was drafted and ordered out, and which then, according to his own statement, was over-ruled by the proper authority, the surgeon of the regiment. The committee recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner be rejected.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 253.

IN THE SENATE OF THE UNITED STATES.

May 2, 1854.—Ordered to be printed.

Mr. Morton made the following

REPORT.

The Committee on Agriculture, to whom was referred the memorial of Denton Offutt, have had the same under consideration, and submit the following report:

That the testimonials presented by the memorialist show that he has devoted much time and labor to the improvement of the breed and management of domestic animals, particularly the horse; that the information which he is enabled to impart on the subject is well worthy of the consideration of the farmers and graziers of the country. Your committee are, however, of opinion that Congress should not respond to the memorial by any legislative action, and therefore ask to be discharged from its further consideration.

At the 29th Congress a favorable report was again made by Mr. Dickinson, from the Committee of Claims, but does not appear to have been reached by the Senate for final action.

The committee, upon a review of the case, have agreed to report the accompanying bill, authorizing the accounting officers to settle and adjust the accounts of Mr. Andrews, upon the principles laid down by Judge Story as legally and equitably applicable to them.

The committee do not intend to recognize the principle that the certificate of a jury is conclusive as to the indebtedness of the government, but in cases like the present, where a competent court lays down the construction of law applicable to a case judicially before it, their opinion is entitled to respect.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 255.

IN THE SENATE OF THE UNITED STATES.

May 2, 1854.—Ordered to be printed.

Mr. Jones, of Iowa, made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Lewis Humbert for an increase of pension, report:

That the petitioner, as appears by his own statement, was a private soldier, and is now in receipt of eight dollars per month as an invalid pensioner. This is the highest rate of pension provided by any existing law for privates totally disabled; and, as the committee have declared in former reports upon similar petitions, they are unwilling to set the precedent of increasing pensions above the *pay standard* of the service, by which the whole pension system is regulated.

They therefore recommend the adoption of the following resolution.

Resolved, That the prayer of the petitioner be rejected.

Dodge, of his discharge for disability on the 1st June, 1834. Latham deposes that the certificate which he received from the surgeon, Dr. Samuel W. Hale, was left with Colonel Tilton, suttler for the dragoons, under arrangements to draw his pay at the time of his discharge; that he made no claim previous to 1850, being in entire ignorance of the laws of Congress touching pensions, until he informed himself in that year. The committee recommend that he be placed on the pension list, and ask leave to introduce the accompanying bill.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 257.

IN THE SENATE OF THE UNITED STATES.

May 4, 1854.—Ordered to be printed.

Mr. Williams made the following

REPORT.

The Committee on the Judiciary, to whom was referred the petition of William Field, clerk of the United States district court for the district of Arkansas, praying to be allowed additional compensation for preparing "an abstract of the bankrupt cases in the above named court," have had the same under consideration, and report:

The memorialist represents that in the year 1845, while acting as the clerk of the district court for the district of Arkansas, he was directed by the Secretary of State, under and by authority of a resolution of Congress, to make out and transmit to the State Department an abstract of the bankrupt cases in the court of which he was clerk, showing the amount of indebtedness of each applicant, the amount of his assets, the per cent. which it paid, the amount of costs in each case, and some other matters connected therewith.

The memorialist further represents, that, owing to the careless manner in which many of the schedules of debts and assets were made out and rendered, that much additional labor was imposed on him in order to get them in proper shape for final settlement.

Your committee, after a careful examination of this claim, are of the opinion, that the memorialist is not entitled to relief.

Congress made an appropriation to pay the clerks of the district courts, whose salaries did not exceed three thousand dollars per annum, at the rate of fifteen cents for each case reported; had this amount been considered inadequate for the labor performed, it seems to the committee, that on a proper representation being made to the Secretary of State, that officer would have recommended to Congress the appropriation of an additional sum of money to pay off these claims. Your committee are not aware of any other application for additional compensation except the one under consideration; by allowing the amount prayed for by the memorialist, it would be establishing a precedent by which all the clerks of the district courts, whose salaries did not amount to three thousand dollars, could very justly and properly claim additional compensation, and as a consequence, a large sum of money would be required to pay off these claims.

Your committee ask to be discharged from the further consideration of the memorial.

IN THE SENATE OF THE UNITED STATES.

MAY 9, 1854.—Ordered to be printed.

Mr. CLAY made the following

REPORT.

Committee on Pensions, to whom was referred the petition of John T Hildreth, report:

ıe prayer of the petition is for bounty land, &c., due the heirs of Hildreth, a soldier of the revolution. It is alleged that a warrant ıe bounty land due said Hildreth, (the petitioner's father,) was nuted for five years' half-pay to the children; and, also, that cer- ›ack pay due him at the time of his death was, together with the ıutation, paid by the department to one Joseph Gregg, as guar- to the heirs, without the knowledge or consent of the widow or · of the heirs. That the said Gregg was not the lawful guardian ɜ children of John Hildreth, deceased, and that neither the widow ildren aforesaid ever received one cent of the money paid to him ch; he having applied it fraudulently to his own use and benefit. petitioner now claims that a fraud was practised upon the govern- by Gregg, the pretended guardian, and that the commutation and pay paid to him is yet equitably due to said widow and heirs, by ›vernment.

ere accompanies the papers, however, the most satisfactory proof John Gregg, who relinquished the bounty lands and received the ıutation and back pay in behalf of the heirs, was their legal guar- regularly appointed and qualified, as certified by the judge of ıte of Montpelier, Vermont, and that the money was properly paid n by the department.

he defrauded the heirs, as alleged, of which, however, there is ıtisfactory proof, their recourse is against him and his securities, ot against the government.

e committee recommend that the prayer of the petitioner be re- l.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 259.

IN THE SENATE OF THE UNITED STATES.

May 10, 1854.—Ordered to be printed.

Mr. Mallory made the following

REPORT.

he Committee on Naval Affairs, to whom was referred the claim of John Makin, a pilot of the Savannah, for salvage compensation for his services to the United States steam frigate Saranac, has had the same under consideration, and thereupon report:

That it appears from the statements and the affidavits filed by the ımant, that he is a regular pilot of Savannah, and as such went out the assistance of the frigate Saranac, on the 3d of April, 1853, ashore out twelve miles from Tybee island; that at the request of Captain ng, of the frigate, he remained on board, and it is presumed he gave rect information as to the depth of water, the character of the shoals d tides, as Captain Long may have desired. A pilot, it is conceded, y perform salvage services—services totally outside of, and beyond, legitimate vocation; but the committee is unable to see, in the ser- es set forth, anything to justify compensation in the nature of sal- ge.

It appears from the account of the claimant, filed in the Navy De- tment, that he received for *extra* services one hundred dollars; and committee does not deem it proper, under the state of the case before to recommend any increase of this compensation.

The committee ask to be discharged from the further consideration he claim.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 260.

IN THE SENATE OF THE UNITED STATES.

May 10, 1854.—Ordered to be printed.

Mr. Shields made the following

REPORT.

The Committee on Military Affairs, to whom was referred the petition of Thomas B. Eastland, having had the same under consideration, report:

The petitioner was a quartermaster in the United States army in Mexico, during the war with that country, from the 24th March, 1847, to 1st November, 1848. In the settlement of his accounts, in the departments at Washington, one of his vouchers was disallowed, amounting to $1,268 33, under the following circumstances: In April, 1847, the schooners Isabel and Isbon were freighted by Major D. H. Vinton, quartermaster at New York, with subsistence stores for Brazos Santiago, (where the petitioner was stationed;) the freight money of the Isabel was made payable, by the bill of lading, to Messrs. N. L. McCready & Co., and that of the Isbon to Messrs. Stanton & Jarvis, all of New York city.

On the discharge of the cargoes of these vessels at Brazos Santiago, it appears that Major Eastland's disbursing clerk paid the freight to J. C. Benedict, who signed the receipt as owner and agent, without being the former, or having any authority to act as the latter. Payment of the freight was afterwards, of course, made to the persons named in the bill of lading. The petitioner asks to be released from liability to account for the amount thus improperly paid by his clerk, as well as for some errors in footing and calculating his accounts, amounting in all to $1,400.

The committee have devoted considerable time to the impartial investigation of this case, and conclude that the petitioner has no claim upon the government.

It is evident that due vigilance was not exercised by Major Eastland in paying the freight money to J. C. Benedict, who exhibited no authority for receiving it; and the bills of lading, forwarded by Major Vinton to Major Eastland, were intended to, and did, inform him that the freight was stipulated to be paid to McCready & Co. and Stanton & Jarvis.

The petitioner does not attempt to show that he made any effort to recover the money from Benedict, to whom it was improperly paid, and the committee report as follows:

Resolved, That the prayer of the petitioner be rejected.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 261.

IN THE SENATE OF THE UNITED STATES.

May 10, 1854.—Ordered to be printed.

Mr. Morton made the following

REPORT.

[To accompany Bill S. 365.]

The Committee on Post Offices and Post Roads, to which the memorial of John W. Kelly was referred, submit the following report:

That it appears by an advertisement dated April 10, 1852, the Postmaster General invited proposals for the transportation of the mail between Bainbridge, Georgia, and Apalachicola, Florida, being route No. 3540. Under this advertisement, a bid was put in by John W. Kelly, of Apalachicola, Florida, for twice a week service, in first class steamboats, from October 15 to June 15, and once a week the residue of each year, with the privilege of conveying the mail between Bainbridge and Chattahoochee by land, in two-horse coaches, when boat is impracticable, at two thousand four hundred dollars per annum; and being the lowest bidder for the requisite grade of service, he was accordingly accepted as contractor on the 19th of June, 1852—service to commence on the 1st of September ensuing and end on the 30th of June, 1855.

For the faithful performance of his undertaking, the said John W. Kelly, with sufficient sureties, executed the contract required by law, as will appear by a copy of the same, hereto annexed, marked No. 1.

It further appea s, that, according to the stipulations of his contract, the said Kelly, on the 1st of September, 1852, entered upon the discharge of his duties, and continued faithfully and punctually to deliver the mail at the different offices on said route, until the 21st of February, 1853, when his contract was annulled in a most summary manner by the Post Office Department. It is alleged that the department was induced to act in this summary method in consequence of the representations of Mr. M. N. Scott, the then postmaster at Apalachicola. It will be seen, by reference to the letter of Mr. Scott, (hereto annexed, marked No. 2,) that when he reported, under date of January 30, 1853, that Kelly had abandoned his contract, he was at Bainbridge, Georgia. It will also be seen, by reference to Mr. Scott's letter dated February 21, 1853, (marked No. 3,) the day on which he, in pursuance of the order of the department, annulled Kelly's contract, he states that the contractor had succeeded in carrying the mail regular up to that period, with but two exceptions, and those were not failures, as the *mail arrived* within two hours of the time on both

occasions. When the postmaster (Mr. Scott) was required by the department to explain the discrepancy in his letters of January 30 and February 21, 1853, he replies, under date of March 24, 1853, and says, that he acted on information derived from others, and had been grossly deceived when he reported that Kelly had abandoned his contract on January 30. (See Scott's letter, marked No. 4.)

The letter of Mr. Hibberd, postmaster at Bainbridge, (hereto annexed, marked No. 5,) shows *that Kelly, up to the period of the annulment of his contract, had regularly delivered the mail at his office, and had not, in a single instance, made a failure during the whole time he had been carrying the mail on route No.* 3540.

That the department, when it annulled the contract of Kelly, acted upon the representations of Mr. Scott, the then postmaster at Apalachicola, which he subsequently admitted were erroneous, there can be no doubt. The Postmaster General, when he directed payment to Kelly for the services he had performed, says: "The postmaster at Apalachicola having reported the abandonment of service by Mr. Kelly, on false information derived from others, and there being, moreover, a necessity for a re-advertisement of the route to procure adequate mail facilities for Apalachicola, which could not be done on the pro rata principle, let Mr. Kelly, late contractor, be paid at his contract rate, from October 1, 1852, to February 21, 1853, subject, however, to fines and deductions."

It thus being made manifest that Kelly was deprived of his contract in a most summary manner, as it is admitted by the Post Office Department, in consequence of false information derived from the late postmaster at Apalachicola, and that he had faithfully performed his contract to the very day on which it was annulled, the question is presented to the committee, What measure of damages shall be awarded Kelly for the loss he has sustained in consequence of the action of the department?

The committee had referred to it, with the memorial, sundry affidavits of persons well acquainted with the business of steamboating on the Apalachicola river, and they estimate the profits to Kelly would have been from six to ten thousand dollars per annum; they all know him, and speak confidently of his ability to have carried out his contract. The high character of these gentlemen is vouched for by the present postmaster at Apalachicola, who also certifies to the fact of Kelly's ability and disposition to have faithfully complied with his contract. These affidavits and certificate of the present postmaster at Apalachicola are hereto annexed, marked Nos. 6, 7, 8, 9, 10, 11.

While the committee will not question the correctness of the estimates of profits that might have been realized by Kelly if he had not been interfered with in the execution of his contract, they are not disposed to adopt them as the measure of damages that should be allowed him.

After a careful review of the whole matter, the committee have arrived at the conclusion that Kelly had faithfully performed his contract for the transportation of the mail on route No. 3544, from Bainbridge, Georgia, to Apalachicola, Florida, until its annulment, on the *21st of February*, 1853, in a most summary and unjustifiable manner

department, and therefore recommend that he be allowed the
:t price to the 30th of June, 1855, at which time the contract
have expired by its own limitation, and for that purpose have
d a bill, for which the favorable consideration of the Senate is

Respectfully submitted.

No. 1.

Chattahooche, Gadsden county, Florida.

No. 3540.—$2,400 *per annum.*

article of contract, made the nineteenth day of June, in the
ıe thousand eight hundred and fifty-two, between the United
(acting in this behalf by their Postmaster General) and John W.
and William M. C. Neil, Charles M. Harris, of Florida.
ıesseth, That whereas, John W. Kelly has been accepted ac-
; to law, as contractor for transporting the mail on route No.
rom Bainbridge, Georgia, by Chattahooche, Florida, Ocheesee,
Vinton, Reckor's Bluff, Iola and Fort Gadsden to Apalachicola
:k, twice a week from 15th October to 15th June of each year,
:e a week residue, in a first class steamboat, with privilege of
ing the mail between Bainbridge and Chattahooche by land in
:se coaches when boat is impracticable, at two thousand four
l dollars per year for and during the term commencing the first
September, in the year one thousand eight hundred and fifty-
ıd ending with the thirtieth day of June, in the year one thou-
ght hundred and fifty-five: Now, therefore, the said John W.
contractor, and William M. C. Neil, Charles M. Harris and his
ı, do jointly and severally undertake, covenant, and agree with
.ted States, and do bind themselves—
To carry said mail within the times fixed in the annexed sched-
departures and arrivals, and so carry until said schedule is al-
y the authority of the Postmaster General of the United States,
inafter provided, and then to carry according to said altered
.e: 2d. To carry said mail in a safe and secure manner, free
et or other injury, in a steamboat, and in a separate and conve-
ıartment, to be suitably fitted up under order of the department,
:xpense of the contractor for the assorting and safe keeping of
l, and for the sole and exclusive occupation, use and accommo-
ıf the Post Office Department and its mail agent, if the Post-
shall require it for the use and accommodation of the mail and
ent, and such mail agent is to be conveyed without further
In case the contractor fail to furnish such suitable accommo-
, the department shall have the right to provide a separate and
ient apartment or other suitable accommodations at the expense
:ontractor. 3d. To take the mail and every part of it from, and
it and *every part of it into*, each post office on the route, or that

may hereafter be established on the route, provided not more than one quarter of a mile from the landing of the boat, and into the post office at each end of the route, and to the mail carriers on connecting routes.

They also undertake, covenant and agree with the United States, and do bind themselves, jointly and severally as aforesaid, to be answerable for the person to whom the said contractor shall commit the care and transportation of the mail, and accountable to the United States for any damages which may be sustained by the United States, through his unfaithfulness or want of care; and that the said contractor will discharge any carrier of said mail, whenever required to do so by the Postmaster General; also, that he will not transmit by himself or his agent, or be concerned in transmitting commercial intelligence more rapidly than by mail, and that he will not carry out of the mail letters or newspapers which should go by post; and that he will not, knowingly, convey any person carrying on the business of transporting letters, or other mail matter, without the consent of the department; and further, that the said contractor will convey, without additional charge, post office blanks, mail bags, and the special agents of the department, on the exhibition of their credentials.

They further undertake, covenant, and agree with the United States, that the said contractor will collect quarterly, if required by the Postmaster General, of postmasters on said route the balances due from them to the General Post Office, and faithfully render an account thereof to the Postmaster General in the settlement of quarterly accounts, and will pay over to the General Post Office all balances remaining in his hands.

For which services, when performed, the said John W. Kelly, contractor, is to be paid by the said United States the sum of two thousand four hundred dollars a year, to wit: Quarterly in the months of May, August, November, and February, through the postmasters on the route, or otherwise, at the option of the Postmaster General of the United States: said pay to be subject, however, to be reduced or discontinued by the Postmaster General, as hereinafter stipulated, or to be suspended in case of delinquency.

It is hereby stipulated and agreed, by the said contractor and his sureties, that the Postmaster General may increase the service or change the schedule, he allowing a pro rata increase of compensation within the restrictions imposed by law for the additional service required; but the contractor may, in case of increased service or change of schedule, relinquish the contract on timely notice, if he prefer it to the change; also that the Postmaster General may curtail or discontinue the service in whole or in part, he allowing one month's extra pay on the amount dispensed with.

It is hereby also stipulated and agreed, by the said contractor and his sureties, that in all cases there is to be a forfeiture of the pay of a trip when the trip is not run; and of not more than three times the pay of a trip when the trip is not run, and no sufficient excuse for the failure is furnished; a forfeiture of at least one fourth part of it when the running is so far behind time as to lose connection with a depending mail. unless it is shown that the same was not caused by neglect, or want of proper skill or misconduct; and a forfeiture of a due proportion of it

ı grade of service is rendered inferior to the mode of conveyance
ɜtipulated; and that these forfeitures may be increased into pen-
·f a higher amount, according to the nature or frequency of the
and the importance of the mail; also, that fines may be im-
ıpon the contractor, unless the delinquency be satisfactorily ex-
l to the Postmaster General in due time, for failing to take from
ver at a post office the mail, or any part of it; for suffering it to
, injured, lost, or destroyed; for carrying it in a place or manner
poses it to depredation, loss, or injury, by being wet, or other-
for refusing, after demand, to convey a mail by any steamboat
the contractor runs or is concerned in running on the route, be-
he number of trips above specified; or for not arriving at the
:t in the schedule, unless not caused by neglect, or want of pro-
ll, or by misconduct. And for setting up or running an express
ɜmit letters or commercial intelligence in advance of the mail,
ransporting knowingly, or after being informed, any one engaged
ɜporting letters or mail matter in violation of the laws of the
States, a penalty of fifty dollars may be exacted for each
and for each article so carried.

it is hereby further stipulated and agreed by the said con-
and his sureties, that the Postmaster General may annul the
:t for repeated failures; for violating the post office laws; for
ving the instructions of the department; for refusing to dis-
a carrier, or any other person having charge of the mail by his
ɔn when required by the department; for assigning the contract
t the consent of the Postmaster General; for setting up or run-
ı express as aforesaid; or for transporting persons, conveying
atter out of the mail as aforesaid; or whenever the contractor
ecome a postmaster, assistant postmaster, or member of Con-
and this contract shall in all its parts, be subject to the terms and
tions of an act of Congress passed on the twenty-first day of
in the year of our Lord one thousand eight hundred and eight,
l "An act concerning public contracts."

·itness whereof, the said Postmaster General has caused the seal
Post Office Department to be hereto affixed, and has attested
ne by his signature, and the said contractor and his sureties, have
to set their hands and seals, the day and year set opposite their
respectively.

ed, sealed, and delivered by the Postmaster General, in the pre-
ɔf—

'. P. YOUNG, *July* 24, 1852.

N. K. HALL, *Postmaster General.* [L. S.]

by the other parties hereto in the presence of—

ɴ P. FOSTER.

ES W. MELVIN.

JOHN W. KELLY, *July* 10, 1852. [L. S.]

W. M. C. NEIL, *July* 10, 1852. [L. S.]

C. M. HARRIS, *July* 12, 1852. [L. S.]

c R. Harris, witness as to signature of C. M. Harris, done July
52.

I hereby certify, that I am well acquainted with William M. C. Neil, Charles M. Harris, and the condition of their property, and that, after full investigation and inquiry, I am well satisfied that they are good and sufficient sureties for the amount in the foregoing contract.

SAMUEL BOARDMAN,
Postmaster at Chattahooche.

August 26, 1852.—Order two additional weekly trips, and allow $2,400 additional per year, being pro rata.

September 23.—Suspend the order of August 26, 1852, until further orders.

SCHEDULE OF DEPARTURES AND ARRIVALS.

From October 15 *to June* 15.

Leave Bainbridge every Sunday and Wednesday at 5 a. m.;
Arrive at Apalachicola next days by 11 a. m.
Leave Apalachicola every Monday and Thursday at 10 p. m.;
Arrive at Bainbridge next days by 10 p. m.

From June 15 *to October* 15.

Leave Bainbridge every Sunday at 7 a. m.;
Arrive at Apalachicola next Tuesday by 6 a. m.
Leave Apalachicola every Wednesday at 10 a. m.;
Arrive at Bainbridge next Friday by 12 m.

No. 2.

BAINBRIDGE, GEORGIA, *January* 30, 1853.

SIR: I regret to inform you that Captain Kelly, the contractor for this route, (3540,) has, like all his predecessors, abandoned the contract.

The steamer which he had in the service has been attached by his copartners for over a month, but he made an arrangement with another boat to carry the mail for him up to the present time, and now she has quit the service. The boat Captain Kelly had in the service, contrary to our expectations, was an old boat, and scarcely suited to the service; and allow me to suggest to the department, we can never have the contract complied with on this route at the present compensation; the pay is entirely inadequate for the service performed. The expense of one of these boats is from fifty to seventy-five dollars per day. In the mean time I will have the mail carried as best I can until I hear from the department.

Your obedient servant,
M. N. SCOTT, *Postmaster.*

TO SECOND ASSISTANT POSTMASTER GENERAL,
Washington City.

No. 3.

POST OFFICE, APALACHIÇOLA, *February* 21, 1853.

R: Captain Kelly, contractor for route No. 3540, had his boat
ı away from him some two months since, (by attachment,) but by
ordinary exertions on his part, he has succeeded in having the
carried by a temporary boat, regular, with but two exceptions, up
e present time, and those were not failures, as the mail arrived
n two hours of the time on both of those occasions.
s contract with the department is annulled to-day, 21st February;
fore the department is due him for his services up to this date.
as been unfortunate, but I believe he had every desire to comply
the contract.
greeably to my instructions, I have this day employed tri-weekly
ce on this route, No. 3540, the particulars I will give in another

ur obedient servant,

M. N. SCOTT, *Postmaster.*

SECOND ASSISTANT POSTMASTER GENERAL,
Washington, D. C.

No. 4.

POST OFFICE, APALACHICOLA, FLORIDA,
March 24, 1853.

EAR SIR: Your favor of 15th instant is just received. I reply by
n mail, to explain the apparent contradiction in my two letters to
lepartment, relative to the service of Captain John W. Kelly, as
actor on route No. 3540.
the date of my first letter, (30th January,) I was confined to my
ı by sickness, in Bainbridge, when I was waited upon by Thomas
ppes, Esq., one of the citizens of Apalachicola, then on his way to
hington, who represented to me the facts as set forth in my letter
e department, assuring me, in addition thereto, that no mail had
received at Apalachicola for a long period, and that Captain
y had taken command of the steamer J. Jenkins. Relying upon
Eppes' veracity, I considered it my duty to inform the department,
was much surprised, on my recovery and return to this place, to
that I had been grossly deceived, and that Captain Kelly actually
ed the mail regularly up to the 21st February, at which time the
, which had engaged temporarily, refused to perform the service
er, and I made the new temporary contract for a tri-weekly mail,
thorized by the department, and which, I am pleased to say, has
ted well thus far.
ours, respectfully.

M. N. SCOTT, *Postmaster.*

M. H. DUNDAS, Esq.,
Second Assistant Postmaster General.

No. 5.

POST OFFICE, BAINBRIDGE, GEORGIA,
February 23, 1853.

SIR: This will certify that Captain Kelly, the contractor on route 3540, has duly performed the same in carrying the mail from Bainbridge to Apalachicola *via* Chattahooche and back, to the 20th February, leaving Bainbridge with the mail for Chattahooche and Apalachicola regularly, and has not in one instance failed to have the mail here connect during the whole time he has been carrying the mail on route 3540, *via* boat to Chattahooche and Bainbridge, or by land from Chattahooche to this place, since my last monthly report to the inspection office. I have no failure to report.

Your obedient servant,

JOHN HIBBERD,
Postmaster, Bainbridge, Decatur county, Georgia.

To the SECOND ASSISTANT POSTMASTER GENERAL,
Washington, D. C.

No. 6.

STATE OF FLORIDA, }
Franklin County. }

Before me, George L. Brockenbrough, a notary public in and for said State and county, duly commissioned, qualified, and authorized to administer oaths, this day came Captain Charles D. Fry and Daniel Fry, who being duly sworn, say that they are by profession engineers, engaged in the navigation of the rivers Apalachicola and Chattahooche by steamboats, and that as such they are acquainted with the business of steamboating on such rivers, and competent to judge of the probable profits to be made per annum by a steamboat or boats engaged in the carriage of the mails of the United States, on the route between Chattahooche and Apalachicola; that they are acquainted with John W. Kelly, who was the contractor on that route in the year 1852; that they know that said Kelly had a steamboat called the "Quincy" employed on said route in the carriage of the mails; that they know that said boat cost, including repairs and equipment, upwards of seven thousand dollars; that they are of the opinion that said John W. Kelly could have largely more than have paid all the expenses of said boat with the profits arising from the freight and passengers thereby realizing, (besides the profit from freight and passengers,) the entire mail pay as a clear profit, and that, in their opinion, said Kelly would have realized from said contract a clear profit of at least seven thousand dollars per annum.

The deponents further say, that they know that said Kelly was, by the cancellation of his said contract, thrown out of employment for one season, and that he, said Kelly, lost thereby at least fifteen hundred dollars in wages, which he could have earned as a pilot; that said Kelly was forced to go to the city of Washington upon account of such cancellation of his said contract, and that he expended at least six hundred dollars upon said travel.

nents further say, that after said Kelly ceased to be the con-
on said route, the said steamboat "Quincy" was sold for about
ı of four thousand dollars.

DANIEL FRY,
CHARLES D. FRY.

n to and subscribed before me, this 24th day of March, 1854.

GEO. L. BROCKENBROUGH,
Notary Public.

No. 7.

'E OF FLORIDA, }
ınklin County. }

·e me, the undersigned, George L. Brockenbrough, a notary
n and for the county and State aforesaid, personally came and
:d Captain L. C. Morton, to me well known, who, being duly
saith that he is well acquainted with Captain John W. Kelly,
ıs late contractor for carrying the mail between Bainbridge, in
te of Georgia, and Apalachicola, State of Florida. Deponent
saith, that he is acquainted with said services agreed to be per-
by the said Kelly, and that he knows of, to the best of his
dge, from being connected in said line of steamers for carrying
l upon the route aforesaid; and further, that deponent knoweth
id Captain John W. Kelly lost, by means of the annulling of
tract by the Post Office Department, a large sum of money.
:nt further saith, that he is fully satisfied that had not said Kelly's
t been annulled that he, upon said contract, would have received
r profits from six to nine thousand dollars per year, and by said
ts being annulled, the deponent knows the contractor was fully
d did comply with the same up to said date.

L. C. MORTON.

n to and subscribed before me, the 24th day of March, 1854.

GEO. L. BROCKENBROUGH,
Notary Public.

No. 8.

:E OF FLORIDA, }
'ounty of Franklin. }

re me, George L. Brockenbrough, a notary public in and for the
and State aforesaid, personally came Frank M. Bryant, clerk of
amer called the Wynnton, now engaged in carrying the mail
palachicola to Bainbridge, who, being duly sworn, deposeth and
ıat the contractors upon said route have realized in clear profits
ı of six thousand dollars within the last eight months, and that
ıe is upon the route lately run by Captain Kelly, of the steamer
.

F. M. BRYAN.

Sworn to and subscribed before me, this 24th day of March, 1854.

GEO. L. BROCKENBROUGH,
Notary Public.

No. 9.

STATE OF FLORIDA,
County of Franklin.

Before me, George L. Brockenbrough, a notary public in and for said State and county, this day came Randolph B. Moore, engineer by profession, engaged in the navigation of the Apalachicola river, on board the steamer Wynnton, which boat is now engaged in carrying the United States mail from Apalachicola to Bainbridge, in the State of Georgia, being duly sworn, deposeth and says, that, to the best of his knowledge and belief, the contractors have made a clear profit of six thousand dollars since the 15th of June last, and that the boat is now running on the same route that Captain Kelly of the steamer Quincy run. The deponent further says that he is well acquainted with Captain John W. Kelly, who was contractor in 1852, and that had not his contract been annulled, that he was satisfied that he was fully able to comply with the terms of said contract.

R. B. MOORE.

Sworn to and subscribed before me, this 24th day of March, 1854.

GEO. L. BROCKENBROUGH,
Notary Public.

No. 10.

STATE OF FLORIDA,
County of Franklin.

Before me, George L. Brockenbrough, a notary public in and for the county and State aforesaid, personally came Benjamin Ellison, of the city of Apalachicola:

After being duly sworn, do hereby certify that I am well acquainted with Captain John W. Kelly, who was a late contractor for carrying the mail from Bainbridge, in the State of Georgia, to this place, Appalachicola, in the State of Florida; that I knew said John W. Kelly purchased a certain steamer for carrying the mail upon said line, called the Quincy, at and about the price of seven thousand dollars, including repairs; and I further certify that I know the contractors prior to Captain Kelly upon said route (to wit, Henry Allen and N. Hawley) realized a large sum per annum in profits for carrying said mail, and in the same steamer Quincy.

B. ELLISON.

Sworn to and subscribed before me, this 24th day of March, 1854.

GEO. L. BROCKENBROUGH,
Notary Public.

No. 11.

I, Benjamin F. Simmons, postmaster at Apalachicola, State of orida, take great pleasure in assuring the Post Office Department at I am well acquainted with the deponents Daniel Fry, Charles D. y, Benjamin Ellison, L. C. Morton, R. B. Moore, and F. M. Bryan, d know each of them to be men of good character and sound vecity. I have attentively read each of their depositions, as are hereto annexed, and readily and willingly qualify to the correctness of e same. I am also well acquainted with the claimant, J. W. Kelly, e nature of his claim, and the faithfulness of the services rendered him as contractor, and believe that he, the said Kelly, was fully le, and disposed faithfully to carry out all the requirements of his ntract with the department, and was in the performance and execun of the same until said contract was annulled by order of the departent. I would further state, that I believe that said contract was voked and annulled by the department through and by means of false ormation, and that I believe said Kelly could have made and realized said contract, of clear gain and profits, the sum of five thousand llars per year.

Very respectfully, your obedient servant,

B. F. SIMMONS, *P. M.*

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 262.

IN THE SENATE OF THE UNITED STATES.

May 10, 1854.—Ordered to be printed, and that 2,000 additional copies be printed for the use of the Senate.

Mr. Morton made the following

REPORT.

The Committee on Agriculture, to whom was referred the memorial of the Maryland State Agricultural Society, submit the following report:

That they have had under consideration the said memorial, (which, it appears, has been adopted by the United States Agricultural Society, recently convened in the city of Washington,) proposing the establishment of an agricultural school and experimental farm at Mount Vernon, under the auspices of the general government, and approve the design of the memorialists, and ask for it the favorable consideration of the Senate.

The United States, while they lead the civilization of the age in almost every other useful art, are far in the rear of the rival States of Europe in that which relates to husbandry. England, Scotland, and Ireland, France, Germany, and even the minor States of the continent, have agricultural schools, with experimental farms attached, to blend science and practical skill in forming a model system of cultivation. A systematic education is deemed indispensable to improve the art of husbandry, as it is found essential to impart progress in every other pursuit of civilized life. We have no schools of agriculture, and receive only from report and very remote example the impulse which has led to renewed efforts in this country, to imitate the cultivation abroad that has, in some degree, redeemed it from the rudeness which threatened to condemn us to perpetual inferiority.

The longing in the public mind for scientific teaching and experimental proof and example, which contrast the improvement of Europe so strongly with ours, is so generally manifested that Congress has attempted to gratify it, by publishing annually, at great expense, gleanings on agricultural subjects, gathered by the Commissioner of Patents, and by scattering seeds of various kinds among the farmers of the country. This effort on the part of Congress, although well received, evidently does not satisfy its constituents. The innumerable agricultural societies springing up everywhere, and the multitude of agricultural journals, all express the general desire in favor of some head and system, to make a model school of instruction, which will beget similar institutions in the States, through those taught in it. The contribution Congress now makes to advance the husbandry of the nation is evi-

dently not properly directed; for it leaves the public unsatisfied and restless in regard to the aid afforded by government to advance the great art upon which its wealth and power mainly depend. The committee think, whatever Congress attempts to do in a matter of such magnitude, it ought to do well. It exerts its power liberally to promote and protect the commerce of the country. Military and naval schools are the smallest part of the machinery devoted to that object. Manufactures have had millions on millions lavished, in indirect bounties, to establish them. Our Patent Office, and its appendages, constitute a government establishment to advance, by the large bonus derived through patent rights on every good invention in mechanics, the interest of the class engaged in that species of national industry. Copyrights provide remuneration to stimulate literary labor. Yet the government does nothing to embody intelligence, and give it direction to assist the efforts of individuals in the greatest business of life, and that which should be the greatest care of government.

The committee would recommend the memorial of the State Agricultural Society of Maryland, supported by that of the United States, to the favorable consideration of the Senate, as presenting a plan well calculated to fill, what all admit be a great void amid the institutions of the country. It recommends an appropriation to be placed at the disposal of the President, and applied at his discretion, to purchase Mount Vernon to be converted into an experimental farm, connected with an agricultural school, and both to be attached either to the Smithsonian Institution or the Patent Office, and to receive from the controling authority of the one with which it may be associated, an organization in analogy, (so far as difference in objects allows,) like that of the West Point Academy, under the War Department; the plan when matured to be submitted to Congress for modification and adoption.

The committee, in further elucidation of its views, submit the said memorial, which contains the recommendations of Washington upon the subject, as a part of this report, and ask that it be printed herewith.

MEMORIAL.

To the Congress of the United States of America:

The Maryland State Agricultural Society, (through its committee, appointed at its last general meeting,) beg leave to submit the views entertained by it in relation to the improvement of agriculture, and to solicit for the plan proposed in the memorial presented in its behalf the favorable consideration of Congress.

The Smithsonian Institution at Washington has been spoken of as a seminary, around which might spring up that national board or school of agriculture, with an experimental farm annexed, contemplated by Washington. During his presidency he favored such a plan as a great desideratum to assist our progress.

"The National Board of Agriculture in Great Britain," he says, "I have considered one of the most valuable institutions of modern times;" *and in reply* to a letter of Baron Poelnitz, suggesting the establishing

of a farm under public patronage, for the purpose of increasing and extending agricultural knowledge, he expresses his solicitude upon the subject, but adds, "I know not whether I can, with propriety, do any more at present than what I have done. I have brought the subject, in my speech at the opening of the present session of Congress, before the national legislature."

This was his first message. After eight years' administration of the government he renewed the subject; and in his last message to Congress, near its close, impresses the object nearest his heart with zealous argument, (seldom used in his messages,) evincing the deep solicitude he felt in the success of his recommendation.

"It will not be doubted that, with reference either to individual or national welfare, agriculture is of primary importance. In proportion as nations advance in population and other circumstances of maturity, this task becomes more apparent and renders the cultivation of the soil more and more an object of public patronage. Institutions for promoting it grow up, supported by the public purse; and to what object can it be dedicated with greater propriety? Among the means which have been employed to this end, none have been attended with greater success than the establishment of boards, composed of proper characters, charged with collecting and diffusing information, and enabled by premiums and small pecuniary aids to encourage and assist a spirit of discovery and improvement. This species of establishment contributes doubly to the increase of improvement, by stimulating to enterprise and experiment, and by drawing to a common centre the results, everywhere, of individual skill and observation, and spreading them thence over the whole nation. Experience, accordingly, has shown that they are very cheap instruments of immense national benefits.

"I have heretofore proposed to the consideration of Congress the expediency of establishing a national university, and also a military academy. The desirableness of both these institutions has so constantly increased with every new view I have taken of the subject, that I cannot omit the opportunity of, once for all, recalling your attention to them.

"The assembly to which I address myself is too enlightened not to be fully sensible how much a flourishing state of the arts and sciences contributes to national prosperity and reputation. True it is that our country, mnch to its honor, contains many seminaries of learning, highly respectable and useful; but the funds upon which they rest are too narrow to command the ablest professors in the different departments of liberal knowledge for the institution contemplated, though they would be excellent auxiliaries.

"Amongst the motives to such an institution, the assimilation of the principles, opinions and manners of our countrymen, by the common education of a portion of our youth from every quarter, well deserves attention. The more homogeneous our citizens can be made in these particulars, the greater will be our prospect of permanent union, &c."

Washington's heart was at this time, when at the loftiest point of his elevation, still looking back to the unpretending pursuit from which he had risen to the command of armies, confederacies, and finally the great modern model *republic. He* looked back to the soil, and that honest

industry which made it teem with blessings. He looked back to the productive masses that make up the States and nation, and felt it to be the duty of those placed by them in power to use that power to facilitate and perfect that creative industry which is the foundation of the prosperity of the whole country. A national board or school of agriculture, with all the advantages which books and science could bring; with all the assistance which philosophical apparatus and experimental tests, applied directly to the soil, upon the largest scale, could lend; with all the opportunities which the cultivation of a considerable domain could afford, for the introduction of that tuition and discipline necessary to form a practical skill and thoroughly systematized views, in the relation to the various modes of farming, was what he contemplated.

A national school, with all these essential requisites, was the great object which Washington had at heart at the close of his life.

It is fortunate at this time that Congress, in acting on the bequest of another far-seeing philanthropist of a foreign land, has organized an institute as a national instrument of instruction, which can, without starting any constitutional cavil, be employed in imparting agricultural knowledge, not only among our own countrymen, but among men of all countries. The express injunction of Smithson's will, which Congress, as a trustee, has undertaken to execute, is "to diffuse knowledge among men." Can it be pretended that agricultural knowledge is not that sort of knowledge which the benevolent friend of human progress wished to disseminate? The design of the utilitarian, who sought, in transferring his wealth to a new country, where an energetic people were scattered over a rich but rude domain, to dedicate it to the progress of his race, in pursuits to which they were called by surrounding circumstances, and which were most likely to promote their prosperity, would not exclude from the knowledge he provided for them that on which their welfare most depended. Could he have meant, in providing for the diffusion of knowledge among men, to provide only for lecture-rooms for *savans*—for instruments to repeat for them philosophical experiments which had been taught them in schools, and which would bring within the circle benefited some dozens of learned professors in a nation? Or could the giver of the Smithson fund, intending "to diffuse knowledge among men," consider his aim accomplished by gathering up a great library for the enjoyment of the literati who might seek in Washington food for their studious appetites? On the contrary, the very phrase of the will, which enjoins "a diffusion of knowledge among men," would seem to exclude those who claim to be already learned in all the abstract sciences, so that the bequest might be made universally useful by dispensing knowledge among the masses of men who have not the time or the means to devote to abstract scholarship—among that great body of men who make up the nation, and to which the mind instantly recurs and contradistinguishes from the small class of learned professors and philosophical students.

The knowledge that Smithson would diffuse among men must be that which would be useful to the many, not the few. He could not hope to diffuse among men generally the science of Newton, of Sir Humphrey Davy, of La Place—in a word, the abstract science of all *the schools, ancient* and modern. The knowledge he wished to diffuse

would be the grand results of their labors, as "coming home to the bosoms and business of men." And what subject is it more important to bring the lights of science to illustrate and improve, than the great leading one of agriculture, which is the sub-stratum of every useful art, of all the prosperity of the country? The farmers of the United States have, then, a claim, the strongest claim, that the Smithson fund shall, at least in part, be devoted to the purpose of increasing that knowledge, which is of all others most useful to the world.

It has been suggested that a happy union might be effected between that experimental system for the improvement of farming which the last hours of Washington's life were busied in maturing, and the institution which has since been founded in the city of Washington under the bequest of the philanthropist Smithson, "to increase and diffuse knowledge among men." The farmer of Mount Vernon concentrated all his views to make the beginning of the new century (1800) an era from whence a progressive improvement should start on his own estate, that might teach the lesson of restoring worn-out lands and give the impulse to the indefinite increase of fertility, beyond that of the original condition of our soils.

This system he learned from his European correspondence, was, with the aid of capital, the lights of science and of practical skill, associated together by boards of agriculture and farming schools, producing such results in Europe. His plans were laid and drawn out in elaborate written instructions to the manager of his estate, and he was on his horse from day to day, riding from farm to farm, to second, by supervision and oral explanations, the designs he contemplated, when he took cold from exposure in a snow storm on the 12th of December. It produced quinsy in the course of the night of the 12th, and closed his career on the 14th in death. Thus the great intellect was quenched when practically employed in the endeavor to make Mount Vernon realize some portion of the vast scheme of agricultural improvement which his last message so impressively urged on Congress. What a tribute would it be to his memory if Congress should now take up his design, frustrated by the hand of death, and make it immortal by selecting Mount Vernon as the seat of an agricultural school and model farm, uniting it, as a branch, to the Smithsonian Institute—the board of regents forming the board of agriculture which Washington contemplated, and the learned professors bringing all the lights of science, aided by experiments in the lecture-room and on the farm, to increase agricultural knowledge and provide for its diffusion. What a monument would Mount Vernon become over the dust of its glorious founder—the founder of the republic—when redeemed again from wilderness and desolation by the power and genius of his country! It would be seen surpassing the finest cultivation of the most perfect model farms of Europe, as our country surpasses Europe in every useful enterprise exciting its emulation, worked by the hands of scholars coming from the several States of the Union, repaid for their labors by the nurture, the energy and the practical skill acquired from it, and by the science taught in the lecture-room of the associated Smithsonian Institution—by the inspirations of patriotism caught at the shrine of Washington, and the emulation *to tread in his footsteps*, on the very spot that fostered

his youth, and in the occupation which fitted him to lead the nation's destinies, it would in effect be the restoration of a patriarchal place and its elevating influences to the children of the Father of his country.

Watched over and cherished by the representatives of the several States and of the people, and by the chief magistrate of the nation, all interested to hallow the spot, to make it teem with improvements, which imitation would spread in the surrounding country, and which the annual swarms of educated youth from its industrious hive would carry with them to the remotest parts, Mount Vernon would renew throughout the world its benignant influence, put on the aspect of that glory which lies now buried in its bosom, and become again a source of joy to the immortal mind it nursed, if the unbodied soul can take an interest in sublunary things once dear to it. For the living surely, and to all future generations of the living, it would be pregnant with blessings, and not only to those deriving immediate instruction in the first and best business of life, but all the pilgrims of every nation on earth that may, through successive ages, visit the sepulchre of the apostle of liberty, would carry away with its patriotic inspiration a sense of the value of tuition in the art which creates personal independence and imparts the vigor of mind and body essential to the maintenance of political freedom.

The principal professor of the Smithsonian Institution (Mr. Henry) has been consulted in reference to its becoming the nucleus of the agricultural establishment here proposed. He does not consider the funds at its disposal more than sufficient to accomplish what he considers the main object in which it is now engaged, and to add to the assistance it now gives incidentally to agricultural instruction, the advantage of a course of annual lectures on the subject. With the aid of the appropriation which Congress makes every session for the benefit of agriculture, in the shape of Patent Office reports, &c., &c., the whole system of instruction contemplated for the agricultural school might be carried out through the agency of the Smithsonian Institution; its regents becoming the board of agriculture, to which Washington looked as the instrument of so much good, and Mount Vernon as the model farm (worked by the students, like those of Europe conducted on a similar plan) supporting them by its products.

The purchase of the farm, and the construction of tenements for the superintendent and scholars, would require considerable expenditure in the beginning, but the establishment, permanently founded, under proper management, would preserve itself, and provide amply for the subsistence of the number of scholars engaged in the cultivation of the farm and receiving the instruction of the Smithsonian Institution. As a property appurtenant to the latter, the question of jurisdiction of the general government over the soil, as clashing with that of Virginia, would be avoided. It would be a farm and a school, like other farms and schools in Virginia, subject to the general laws of the State, and to such rules of the Institution as the parties entering it would make obligatory by their own consent.

If, however, unforseen difficulty should be presented to the acquisition and application of it to the object proposed, there are many farms *finely situated* in the District of Columbia suitable for the design if it

be the pleasure of Congress to adopt it. And here, (if Congress xerted a constitutional power in providing a hospital for the insane e District,) it may, if in its wisdom it deems fit, found a District l extending its benefits to the sane of the whole country.

ie undersigned committee respectfully submit this memorial, be- ig that they represent truly, not only the wishes and interests of laryland State Agricultural Society, but many others of the agri- ral associations which a zeal for the improvement of husbandry iven birth to in every State of the Union. The opinion generally ils that Congress may organize a system at the capital for the ion of agricultural knowledge, associated with that already estab- l for kindred objects, and that it might be made, under wise and ent legislation, auxiliary to the aims of every State agricultural l or association in the Union, and thus advance the greatest est of the country, not merely by its own direct action, but by the lse it would giv to co-operating systems in the several States.

JAS. T. EARLE,
ODEN BOWIE,
CLEMENT HILL,
F. P. BLAIR,
GEORGE W. HUGHES.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 263.

IN THE SENATE OF THE UNITED STATES.

May 10, 1854.—Ordered to be printed.

Mr. Evans made the following

REPORT.

[To accompany Bill S. 367.]

n the matter of the application of the legal representatives of John Shly, (late) of the State of Georgia, for the extension of a patent granted to him on the 27th October, A. D. 1836, for an improvement in the machine "for picking or breaking wool and ginned or seedless cotton," referred to the Committee on Patents at the present session, your committee respectfully report:

That having examined this case, they find it of such public utility as ntitles it to the extension asked for, no extension having been granted f this patent either by the Commissioner of Patents or by Congress. : appears that an application for an extension would have been made the Commissioner of Patents at the proper time, but that the decease f the patentee, just previous to its expiration, prevented such applica-on from being made.

The patent expired in October, 1850, since which time the case has vice been referred to the Committee on Patents of the Senate; and at ie 1st session of the 32d Congress a bill was duly reported for its ex-nsion, which was not acted upon, owing to the press of public busi-ess.

The examination made by your committee induces them to believe iat the passage of an act extending this patent will in no manner in-rfere with individual rights, and at the same time be of advantage to ie public.

Your committee are, therefore, unanimous in favor of granting the ttension, and submit a bill for that purpose.

33d Congress, 1st Session | [SENATE.] | Rep. Com. No. 264.

IN THE SENATE OF THE UNITED STATES.

May 10, 1854.—Ordered to be printed.

Mr. Shields made the following

REPORT.

[To accompany Bill S. 368.]

The Committee on Military Affairs, to whom was referred the petition of Captain Charles G. Merchant, of the United States army, having had the same under consideration, report:

The facts in this case, as set forth by the petitioner, are these: "That in the month of September, 1849, he was travelling on duty from Leona to San Antonio, Texas, having in his possession his returns in the commissary department, for the second quarter of 1849; that in crossing a stream, the public wagon, containing his baggage, was carried off by the rapid current, and his papers were lost; every exertion was made to recover the trunk containing the accounts, but without success. That the amount of the account current, for which he is responsible on said quarter, was $2 15 69; that all of the said amount was expended in the purchase of provisions for a detachment of 217 recruits on the march from the coast of Texas to San Antonio."

These facts are fully supported by the affidavits of G. H. Nelson and Lieut. Wm. Steele; and the committee, after a careful examination of the case, beg leave to report a bill authorizing the proper department of the government to settle the account on principles of equity and justice.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 265.

IN THE SENATE OF THE UNITED STATES.

May 11, 1854.—Ordered to be printed.

Mr. Wade made the following

REPORT.

[To accompany Bill S. 369.]

The Committee of Claims, to whom was referred the petition of the legal representatives of Colonel John Anderson, report:

This case was fully considered at the last session of Congress by the Senate Committee of Claims, and a favorable report, accompanied by a bill, was made thereon. Upon a review of the case, the committee adopt the report of last session, and recommend the passage of the accompanying bill.

In Senate.—January 20, 1853.

The Committee of Claims, to whom was referred the petition of the administrators of John Anderson, together with the papers on file in the case, report:

This claim has been long before Congress, and several adverse reports have been made upon it, on the ground that "the buildings were not destroyed till some time after they had ceased to be occupied by the American troops."

The property for which indemnity is claimed was situated at Frenchtown, on the river Raisin, and, soon after the commencement of the war of 1812, was taken possession of by Quartermaster Reid, and made a depository for military stores of the United States.

In August the place was surrendered to the British, a drum and some muskets being left in the house; and it appears to have been occupied by them until the approach of General Winchester, when the enemy retired, leaving the house still standing. On the defeat of General Winchester, Colonel Anderson's house was again occupied by the British and Indians; and they continued to occupy it until June, 1813, when, being compelled to evacuate the place, they set fire to it and destroyed it, stating, as the reason for doing so, (as appears from the additional evidence now furnished,) that the place had been used for a military depository and as barracks for the American troops, and that that justified their destruction, to prevent their being so used again.

By the evidence, as formerly presented, it did not appear that the place had been occupied by the American troops during the time that General Winchester's forces held the town, and after it had been occupied by the enemy and abandoned by them without being destroyed. But it appears from the testimony now submitted, that it was occupied by a portion of a company of "spies and rangers" in the American service up to the time of, and during the action which resulted in the defeat of General Winchester. It appears to have been then immediately re-occupied by the enemy, who, after some delay, destroyed it.

When the case was submitted to the Third Auditor, under the act of 1825, the ground of objection, as stated by him, was, "that the buildings were not destroyed till some time after they had ceased to be occupied by the American troops." But it now appears that the American troops did not cease to occupy them until they were driven out by the enemy. Now, if the enemy had proceeded to destroy them at once, it would seem to be a case clearly within the rules heretofore recognized; and the committee do not perceive that their having delayed the destruction so long, and only so long, as suited their own convenience, can justly exclude the claimants from the indemnity to which they would have otherwise been clearly entitled.

The good character and credibility of the witnesses whose testimony is contained in the additional documents now before the committee are certified, from personal knowledge, by Senators Felch and Cass. The former says: "I have no hesitation in saying that no witnesses could be entitled to more implicit confidence than these gentlemen." General Cass says: "I have a good deal of knowledge of the occurrences referred to, and am satisfied of the truth of the facts stated. I know all the persons named, except Campan. They are respectable, trustworthy men."

The committee are of opinion that this evidence brings the case clearly within the rules heretofore recognized by Congress, and that relief should be granted. They accordingly report the accompanying bill, and recommend its passage.

CONGRESS, [SENATE.] REP. COM.
:t Session. No. 266.

IN THE SENATE OF THE UNITED STATES.

MAY 15, 1854.—Ordered to be printed.

Mr. CLAYTON made the following

REPORT.

[To accompany Bill S. 372.]

Committee on Foreign Relations, to whom was referred the memorial of harles D. Arfwedson, consul of the United States, at Stockholm, have d the same under consideration, and now report:

appears from a letter of the Secretary of State, dated January 27, ', that upon the recall of Mr. Ellsworth, late chargé d'affaires of the ed States to Sweden, he was directed by the Department of State ace the legation in the hands of the United States consul at Stock- l. In compliance with that direction Mr. Ellsworth transferred the ion to Mr. Arfwedson, on the 24th of July, 1849. From that time April 22, 1850, when Mr. Schroeder entered upon the functions of office, Mr. Arfwedson, "in conformity with repeated instructions the department, corresponded with the Swedish government and wn, upon diplomatic subjects of a delicate nature, and in a manner ely satisfactory to his government," and that his services during period were of great value to the interests of his own government. ne memorialist acted as chargé d'affaires for a period of eight months twenty-nine days; for which his compensation, at the usual rate of 00 per annum, would amount to the sum of $3,362 50. In the ral civil and diplomatic appropriation act of August 31, 1852, pro- n was made for the payment of half that sum to the memorialist, ng $1,681 25 still due, for which he now appeals to Congress.

hen this application was before this committee during the last gress, it was believed that the consul fees, together with the amount allowed, would be equivalent to the full compensation of a chargé, nence the whole was not then allowed. But it now appears from tificate of the memorialist, filed with the present application, that whole amount of consular fees received by him from the 1st of l, 1849, to the 1st of April, 1850, was but $89 75—a sum believed barely adequate to cover the expenses of the consular office itself. ider these circumstances the committee see no reason why a dis- nation should be made against this particular claimant, whilst it een usual to allow full compensation for such services in other ar cases. They therefore report a bill for the amount of the bal- above stated, and recommend its passage.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 267.

IN THE SENATE OF THE UNITED STATES.

May 16, 1854.—Ordered to be printed.

Mr. Fish made the following

REPORT.

The Committee on Naval Affairs, to whom was referred the petition of officers of the navy and marine corps, who were attached to the Gulf squadron during the late war with Mexico, praying to be allowed extra compensation, report:

That the only reason assigned by the memorialists for the increased compensation which they ask, is the fact that Congress has granted extra compensation to such officers and men as served during the war with Mexico on the Pacific coast; alleging that they, (the memorialists,) "under circumstances *peculiarly* trying, shared, in common with their friends in the Pacific, all the fortunes of war, and hence, in all legislation touching the subject, ask to be placed upon the same footing with them."

The memorialists do not state what were the "peculiarly trying circumstances" in which they were placed.

It is undoubtedly true that they were exposed to the trials and dangers incident to a state of war—these were common to all the officers and men on duty against the republic of Mexico at that time. But inasmuch as the duties, the trials, and the dangers of a state of war, are precisely those for which a navy is maintained, the committee fail to perceive therein any peculiar circumstances which should give claim to extra compensation so soon as the necessities or the policy of the country require the performance of the very duty for which a navy is employed.

Congress may have had good reasons for the allowance of extra compensation to the officers and men who served on the Pacific coast—but unless equally good reasons be shown for similar allowance in other cases, the action of Congress in that particular furnishes no augument, and justifies no claim.

The memorialists, undoubtedly, discharged their duty faithfully and gallantly during the period referred to; but to award extra compensation for this cause alone, would be alike derogatory to those to whom it is offered and to a service which could not fail to become mercenary when taught to look for rewards in money for the discharge of its inevitable, but not extraordinary duties.

The committee recommend that the prayer of the petitioners be denied.

d CONGRESS, 1st Session. [SENATE.] REP. COM. No. 268.

IN THE SENATE OF THE UNITED STATES.

MAY 16, 1854.—Ordered to be printed.

Mr. FISH made the following

REPORT.

he Committee on Naval Affairs, to whom was referred the petition of Peleg Rhoads, Julia L. Smith and others, describing themselves as relatives and heirs at law of Captain William Henry Allen, late of the United States navy, praying for remuneration for his services, and for an equivalent to his share (as prize money) of the value of several vessels captured and destroyed during the war with Great Britain, report:

The petitioners are the widow of a brother, the husband of a de-ased sister, and the neices of Commander Allen, who died in August, 313. They ask for prize money for vessels and their cargoes des-oyed by the United States brig Argus, under his command. Their etition includes in its prayer, "remuneration for services"—but it is ot alleged that any portion of the compensation due to Commander llen up to the date of his death remains unpaid. If there be any-ing due on this score, the interposition of Congress is not necessary enable his representatives to receive it.

The committee, therefore, dismiss this portion of the prayer of the etition.

The other object of the petition is of more importance.

This is not the first application which has been made to Congress r an allowance of prize money for vessels destroyed at sea—nor is it e first time that application has been made in this very case. It was resented as early as the first session of the 14th Congress, (Decem-er, 1815,) and has subsequently, on two or three occasions, been before e or the other of the two Houses of Congress.

The circumstances on which the application is based are as follows:

In the summer of 1813, Mr. Allen, (then a lieutenant,) commanding e United States brig Argus, was ordered to convey Mr. Crawford, en recently appointed minister to France, to some port in that coun-y. After having landed him, his orders ran as follows: "You will en proceed upon a cruise against the commerce and light cruizers of e enemy, *which you will capture and destroy in all cases*, unless their alue and qualities shall render it *morally certain* that they may reach safe and not distant port. *Indeed, in the present state of the enemy's rce, there are very few cases that would justify the manning of a prize,* ecause the chances of reaching a safe port are infinitely against the tempt; and the weakening of the crew of the Argus might expose ou to an unequal contest with the enemy."

He was directed to cruize from the entrance of the British channel along the coast of Ireland and of England; and after thus employing a few weeks, to return home.

The orders given to Lieutenant Allen, to destroy all the vessels, &c., he might capture, were those which the policy of the country required, and which the circumstances of the times made necessary. Similar orders were issued, during the same year, to other officers in command of national vessels. They were within the unquestionable right of the government to issue, and cannot be made the foundation for any extraordinary claim upon government on the part of those entrusted with their execution.

In the execution of his orders, Lieutenant Allen captured and destroyed a number of unarmed merchant ships and their cargoes, belonging to citizens of Great Britain; and on the 13th August, 1813, he fell in with the British armed ship Pelican, between which and the Argus an engagement took place, which resulted in the capture of the Argus. During the engagement Lieutenant Allen received a wound, of which he died on the following day.

Independent of the express terms of his orders, and the strong reasons assigned for their strict observance, the cruizing-ground assigned to the Argus seems entirely to preclude the idea that Lieutenant Allen could, under any circumstances, find occasion to avail himself of the permission to omit the destruction of captured vessels, if it were "morally certain that they might reach a safe and not distant port." Indeed, he made this attempt in two cases, (schooner Matilda and ship Betsey,) but both of these vessels were recaptured.

The committee are not informed whether this attempt had any effect, by reducing the force of his own vessel, in jeoparding its safety in the engagement which followed, in which Lieutenant Allen lost his life, and the American vessel was captured. It serves, however, to show the wisdom of the orders under which he sailed, and the extreme difficulty, not to say the impossibility, of sending into port any vessel captured within the waters of the enemy's country. It serves, also, to show that the circumstances which surrounded him, and the necessities of the case, were quite as imperative as his orders, in requiring the destruction of captured vessels.

In the absence of an express grant by statute, the officers and crew of a national ship making capture of a vessel belonging to the enemy, or to a citizen of the enemy's country, have no claim to an interest in the prize, or to any share in its proceeds. The officers and soldiers of the army which takes a town, or a fort, are not allowed a right of property therein. And the right to "prize-money" in the navy, is wholly the result of statutory enactment.

Mr. Allen, and the other officers and crew of the Argus, have, therefore, no claim, in law, for any compensation on account of the vessels, &c., destroyed by them. If they had, there would be no occasion for an application to Congress; the courts of law would have given them their rights forty years ago.

Section 5 of the act for the better government of the navy, passed April 23, 1800, (Stat. at Large, vol. 2, page 52,) enacts that "the *proceeds of all ships* and vessels, and the goods taken on board of them,

all be adjudged good prize, shall, when of equal or superior force essel or vessels making the capture, be the sole property of the ; and when of inferior force, shall be divided equally between ed States and the officers and men making the capture."

statute gives a right in vessels and goods *taken*, not *destroyed*. es to a distribution of the "*proceeds*" of such vessels and goods, *dged good prize*." No adjudication can take place if the vessel oyed; nor can there, in such case, be any "proceeds" in which ors can claim a right of property.

committee are also of opinion that there are no equitable grounds in the claim advanced by the petitioners, or the claims of the and crews of any other of our national ships which destroyed property of the enemy at sea, in time of war. The wisdom, policy of the laws which confine the reward of the captors to eeds of a vessel *judicially* declared "good prize," rest upon es which cannot be questioned.

o contemplate (what it is hoped can never occur with those the commission and wearing the uniform of the American e possibility of fraudulent, exaggerated, or even collusive claims, system which would compensate for vessels destroyed at sea, brought into port, the absence of the risk of recapture, and dance of the ordinary dangers of the sea in bringing their prize t, would present a constant temptation to the needless destruc- roperty, even to the jeoparding of human life. Such a system t fail to stimulate cupidity, possibly at the expense of human- ably in conflict with a prudent economy and regard to the tion of property, and almost certainly to the attempt to ex- the value of property which has been consigned to one or the elements of destruction.

noral objections of inhumanity, waste, and demoralization plead against the system, which has been repudiated, and are sus- y considerations of public policy.

ally, those vessels only are destroyed which could not be sent t. Many are captured which, upon judicial inquiry, are de- ot "prizes," while some such are, possibly, destroyed at sea. option of the policy desired by the petition would require the ent to pay for all destroyed, of whatever character or under r circumstances. It would involve burdens greater than the flicted upon the enemy. The private citizen of the enemy's would suffer, but the enemy itself would experience only a and indirect loss; while the nation whose vessel effects the ion, in addition to the expense of maintaining that vessel, pays treasury the value of the property which its own arms has de- without any compensation from an occasional share with the in the value of a prize.

essels destroyed by the Argus are understood all to have been erty of private citizens of Great Britain. The committee are re of any instance in which this government has made compen- the officers or crew of any of its vessels of war for the de- of private unarmed vessels destroyed at sea, and they hope precedent will be established making such compensation.

Compensation has been made when the policy of the government prompted the restoration of a prize *after condemnation*, (case of the Mershouda and Mirboha, restored to the emperor of Morocco;) also, where the government took the prize into its own service, (case of the Transfer, captured by the Syren.) And in several instances, where *public armed* vessels of Great Britain were destroyed by vessels of our own navy, during the war of 1812, compensation was made by particular laws—Congress exercising a supervision in each case, considering in each the circumstances peculiar to itself, and unquestionably controlled in all by the impulse of feeling excited by the success of an infant navy, in its first contest with that of Great Britain. Under the influence of this feeling, an extraordinary reward was coupled with the expression of public approbation, without establishing thereby any precedent, or principle, to regulate its conduct in case of a future war—much less any principle to be extended to a wholly different class of cases, such as the destruction of private unarmed ships.

So careful has Congress been to avoid recognizing the principle of paying even for the armed ships of the enemy, destroyed at sea, that it refused to adopt the recommendation of President Madison, who, in February, 1813, when communicating the capture and destruction of the "Java," submitted "to the consideration of Congress the equity and propriety of a general provision, allowing in such cases, both past and future, a fair proportion of the value which would accrue to the captors on the safe arrival and sale of the prize." Although many private vessels, belonging to British subjects, had, prior to the date of this recommendation, been destroyed by ships of our navy, President Madison did not include them in his suggestion to Congress; nor did Congress think proper to adopt even the limited extension of its general policy, recommended by the President, but confined its action to the granting of extraordinary rewards, in particular cases.

In the prosecution of a war, occasions continually present where danger is great, and the only reward is the consciousness of duty well discharged. Consideration of the individual, whether officer or private, is subordinate to the public policy, and to the interest of the common cause.

Such, in the opinion of the committee, was the case of Lieutenant Allen. He was ordered upon a service of danger and difficulty, and discharged its duties with great energy and bravery. It was a service in which the policy and the laws of his country gave no promise of pecuniary reward. He died, leaving no widow and no child to present a claim, when sympathy might plead for a relaxation of a proper rule.

His, however, was not the only instance of officers and men being sent on a similar unprofitable service.

In a communication from the Secretary of the Navy, dated January 13, 1816, (American State Papers, volume Naval Affairs, page 373,) is a list of seventy-four vessels, other than vessels of war, destroyed by the navy of the United States during the war with Great Britain; thirteen of these were destroyed by the Argus. The representatives of Lieutenant Allen, at that time, claimed that the value of the vessels so destroyed by the Argus amounted to three millions of dollars.

This statement may suggest the extent of the claim which will be

made for vessels so destroyed in the war of 1812, if the principle asked to be established by the petitioner be adopted, or if the force of a precedent be given, even though yielded to a case of extreme merit, where bravery and patriotism, and the gallant discharge of duty, did not avail to preserve the life of one who was "a bright and shining light" in the service of his country.

The committee have considered this case with a strong desire to recognize the merits of Lieutenant Allen, and, if possible, to make some compensation to his relatives. They have, with reluctance, come to the conclusion that no principle of right, of justice, or of policy, will allow them to recommend any action in accordance with the prayer of the petition.

They have made their report at much length, thinking it well to disclaim entirely the principle on which the petition is based—a principle unsustained by any claim of right or of equity, and utterly at variance with every dictate of public policy,—which, if recognized, will involve the expenditure of many millions of dollars, in consideration of the past, and of incalculable millions in the event of a future war with a commercial nation.

The committee recommend the adoption of the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 269.

IN THE SENATE OF THE UNITED STATES.

May 16, 1854.—Ordered to be printed.

Mr. Cooper made the following

REPORT.

[To accompany Bill S. 375.]

The Committee on Revolutionary Claims, to whom was referred the memorial of the heirs of General Stephen Moylan, deceased, praying that the unsettled state of his accounts should not be a bar to a grant of half-pay by Congress, beg leave to report:

That it appears General Stephen Moylan was commissioned a colonel in the revolutionary army in the year 1776, and was immediately afterwards directed by Congress to raise and equip a regiment of light dragoons for the continental service. Having succeeded in raising a regiment in pursuance of the directions of Congress, he continued to serve without intermission until the close of the war, sometimes commanding his regiment in the field, sometimes acting as quartermaster general, and at others as a volunteer aid to General Washington. Like many of his compatriots and fellow-soldiers, he entered the service of his country rich, and left it poor when his services were no longer needed. One of the bravest and most intelligent of the officers of the American army, he enjoyed the confidence of Washington in a very high degree.

He was in most of the battles fought during the war, serving with distinction from Trenton to York Town, through the whole of the protracted and bloody struggle. In the course of the war he had been entrusted with considerable sums of money for the purpose of equipping his regiment and paying the men, and probably for other purposes. As early as 1779 he was charged on the books of the treasurer with $98,038 67; and at the close of the war this charge remained open against him, the sums paid by him never having been entered to his credit by the accounting officers of the government.

The death of General Moylan, and the subsequent destruction of many of his vouchers, render it impossible to understand the true state of the accounts between him and the government. But there are several facts and circumstances which make it probable that the government was in his debt.

Shortly after the war, several letters were addressed to General Moylan, urging him to make prompt exhibition of his vouchers, with a view to the settlement of his accounts. In pursuance of these letters, as it is presumed, during the year 1790 General Moylan filed his account, in which he claimed a credit of £35,899 10s. 9d., filing therewith

as vouchers the accounts of several captains of his regiment, to whom, as appears from a letter of Peter Hagner, esq., he had paid considerable sums of money. Subsequently he filed a second account, in which he claimed £8,478 12*s*. 1*d*.; the items of which, as appears from the last-mentioned letter, were generally supported by vouchers. These sums united, amount to nearly $120,000, which would leave a considerable balance due to General Moylan.

Previously to the filing of these two accounts, the officers had been urgent in demanding a settlement. After they were filed, instead of urgency on the part of the officers for a settlement, we find them making excuses to General Moylan for their delay in the adjustment of his accounts, which he had been from time to time demanding at their hands. From this fact it may be inferred—the committee are of opinion, without violence to any of the circumstances of the case—that both General Moylan and the accounting officers believed that there was a balance due him by the government. And when it is remembered that he always bore the character of an upright and honorable man, and that he went into the service rich and left it poor, the presumption in favor of this view of the case is greatly strengthened.

But the heirs of General Moylan do not ask payment of the balance which they believe was due to him by the government, but only that the unsettled state of his accounts shall not be permitted to brand one of the most distinguished patriots of the revolution as a defaulter, nor to stand in the way of the allowance, by Congress, of half-pay to themselves. Whatever may be the case now, the man who, during the revolution, appropriated public money to private use, stood dishonored in the face of the community. Seeing no reason to believe that General Moylan ever did convert to his own use any of the public money entrusted to his care, the committee feel called on to respond favorably to the prayer of the petitioners. They therefore report a bill in conformity to their wishes.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 270.

IN THE SENATE OF THE UNITED STATES.

May 17, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

The Committee on Pensions, to whom was recommitted the petition of Leonard Proctor, with additional papers, beg leave to report:

That they find nothing in the additional papers filed to change their views in relation to the case, as expressed in an adverse report, made on the 20th of February last. It is clear to the mind of your committee that neither the father or mother of the petitioner was entitled to pension at the date of their deaths, respectively; the children cannot, therefore, justly claim anything of the government in their right as *heirs*. The committee affirm the former report, hereto appended, and submit the following resolution:

Resolved, That the prayer of the petitioner be rejected.

In Senate.—February 20, 1854.

The Committee on Pensions, to whom was referred the petition of the children of Leonard Proctor, praying a pension on account of his services in the war of the revolution, report:

That the said Proctor and his wife, having both deceased in the year 1827, neither of them were entitled to a pension at the time of their death, and consequently there is nothing due from the government to their children. There is nothing in the case which commends the claim of the children to the especial consideration of Congress. The committee, therefore, report the following resolution:

Resolved, That the prayer of the petitioner be rejected.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 271.

IN THE SENATE OF THE UNITED STATES.

May 18, 1854.—Ordered to be printed.

Mr. Mallory made the following

REPORT.

[To accompany Bill S. 376.]

The Committee on Naval Affairs having under consideration the navy, and having carefully examined the means of improving it, report:

The naval service has neither the ships, the armaments, nor the organization which the condition, commerce, and resources of the country, and the expenditures for its maintenance demand. With a commerce covering the globe, and exceeding in tonnage that of every other power, our means for protecting it are far less than those of the smallest maritime State.

France, with that completeness of plan and attention to detail which distinguish all her public institutions and works, has, at this moment, the best disciplined and most efficient ships, squadrons, and fleets that have ever existed. Her equipments, her gunnery practice, her squadron and fleet sailing and manœuvering, aided by her propellers, have never been equalled, and have elicited the admiration of the naval world. France, in the days of her greatest power, bitterly wept the want of a conquering navy, and by a steadfast and consistent policy, first marked out and urged by the Prince de Joinville, she has nobly prepared to retrieve the past.

Under one of the last decrees of her National Assembly, made in October, 1849, the report of its committee of fifteen members, chosen by ballot, was published in 1851, in two large quarto volumes of thirteen hundred pages, and embraces searching inquiries into every branch of the material and personnel of the naval service.

Great Britain, with more and heavier ships, is as yet unequal to France in those numerous, yet essential details, which combine the mind and matter of naval service in the most efficient organization. Yet both navies possess, in common, those elements of offensive and defensive power, which may be regarded as changing the character of naval warfare, and as destined to make its contests the forlorn hopes of the seas.

The auxiliary screw, protected from the effect of shot, while it enables belligerent ships to approach and engage with equal control

over wind and sea, and removes all excuses for avoiding a contest, gives to neither the advantage in the flight; and this, with the introduction of the eight and ten-inch Paixhan shell is the salient improvement in naval warfare. The round shot, passing entirely through the hull of the ship, does it comparatively little injury. Its course through the oak planking can hardly be traced by a quill, and a carpenter's plug repairs the damage; still less injury is done if the shot does not pass through. In Perry's engagement on Lake Erie his ship received one hundred and twelve round shot in her hull, and came gallantly and victoriously into port.

But the days of such contests are past; and we may now regard them as the amicable and gallant jousts of ocean's courtly knights in comparison to the future battles of the great deep, if theory, tested by experiments, and sustained by the results of the late action at Sinope, may be relied on.

It may be considered as a fact pretty well established, that two or three explosive nine or ten-inch shells, well aimed and properly planted, are enough to tear out the side of the largest ship, and completely to disable, if not wholly destroy her. I quote from the experiments made with nine-inch explosive shot in the harbor of Brest, upon the Pacificanteur, an eighty-gun ship. The piece to be fired was mounted on a small pontoon, and planted off upon the water to the distance of about six hundred and forty yards from the eighty-gun ship, which was to be the target.

The experiments were made in the presence of a number of the most eminent officers in the French navy. The first shot sufficed to determine opinions; but, to complete the evidence, twelve shot were fired. The following is a summary from the official report on the occasion. The first shot struck low, and as soon as the explosion was heard, the commission repaired on board. A thick smoke filled the between decks, where the bomb had burst. The fire engine was worked, and the smoke lasted ten or twelve minutes; the bomb had made a breach of eight and a half inches diameter in the ship's side, which then was twenty-nine inches thick; it had torn off two feet of the inner plank and then exploded, made a hole in the orlop deck of two or three feet square, knocked away and shattered to atoms more than one hundred and fifty square feet of timber.

The second bomb traversed the quarter-deck, carrying with it two pieces of plank, one of which was five and a quarter feet long, then striking the mainmast obliquely, it knocked off a splinter from three to four feet long and nine and a half inches thick, and bursting, tore away a mast-band ten and a half feet in circumference, weighing one hundred and thirty pounds; this mass of iron was driven with such a force that one of its halves struck the opposite bulwark, seventeen feet distant, where it flattened and adhered. The splinters of the bomb shattered the bitts, cut some of the braces, and would have injured many men and articles of rigging if the ship had been equipped. The explosion also set fire to a coil of rope.

The third bomb entered the side, between two ports, struck and tore off an oaken knee seven feet five inches long, and six and a half to *thirteen* and three-quarter inches thick, which, with its iron fastenings,

weighed more than two hundred and six pounds; then bursting, its splinters knocked down forty of the wooden figures nailed around the guns to represent men. The explosion also shattered one of the beams supporting the decks above, starting several planks, one of which was ten and a half feet long, and another five and a quarter feet, &c.

To abridge this detail, I will only refer to the two most remarkable shots of the remaining nine. Perceiving that the bombs always passed through the side of the vessel, the charge of the gun was diminished each time. With four and a half pounds of powder, and always at six hundred and forty yards, a bomb struck in the wood, between the two ports, and burst, tearing away the frame and planking, and making a breach of several feet in height and width, so shattered that all present thought that *the shot would have endangered the vessel* had it taken effect near the water line.

Besides this, two pieces of the iron work, weighing sixteen pounds, were driven in-board by the force of the explosion, and nineteen figures knocked down. Finally, the twelfth and last bomb—

With the same small charge, and at the same distance, struck the corner of a port, knocked away a heavy piece of iron work, and lodged in the upper side of the ship against an iron knee five and a quarter inches in size, and firmly supported; the blow made three fissures in the iron, two of which were four and a quarter inches thick; and the bomb, still unbroken, buried itself further in the side, burst and knocked down twenty figures.

As to the havoc made upon a ship by these projectiles, the French commission was of the opinion that it was "so terrible and so great, that it is thought one or two bombs of this kind, bursting in a battery, would make such confusion as to cause the surrender of the vessel, or at least conduce materially to it;" and "to produce by the power of the bomb and its splinters such damage in the frame that if the explosion should take place near the water line the vessel would probably sink. There is no doubt on this subject," it was added, "as may evidently be perceived from the result of bomb number —, which, had it struck a few feet lower, would certainly have done irreparable mischief."

Such are the naval armaments of England, France, and Russia; and while we acknowledge their mighty power, we may well doubt, in the absence of all experience, the policy of placing upon a heavy ship a numerous battery of *such* guns, each of which is of itself sufficient to destroy an adversary, instead of dividing them among several ships.

Perhaps the following comparative view may best illustrate the relative force of our navy in 1846, (see Sen. Doc. 187, 20th Cong., 1st Session,) before the three great powers of Europe had put in commission many of their ships, which have since been sent to sea:

Great Britain, for every 100,000 tons of commerce, had afloat and efficient	588 guns.
France had	1,063 "
Russia	2,466 "
And the United States had but	97 "

The British navy has at no period been so formidable as at this moment, as will appear from *a glance* at Steel's list of the royal navy for

1853. It is stated at 545 effective ships, mounting 13,754 guns, many of them of the heaviest character. The list of screw steamers gives—

2 of 120 guns.
1 of 101 "
5 of 90 "
2 of 80 "
8 of 50 to 70 guns.
6 of 21 to 40 "

The screw steamers in course of completion were—

3 of 100 to 120 guns.
6 of 90 guns.
3 of 80 "
1 of 50 "

The application of the screw to the ordinary ship of the line, giving her an auxilliary speed of from four to seven knots, is the salient improvement where the British have excelled the French. Even while we are writing, we learn that the Cressy, a 90-gun ship of the Baltic fleet, was driven from her moorings, and only saved from going ashore on the Swedish coast by her screw.

Your committee has thus briefly reverted to the navies of the great commercial powers of Europe, the better to illustrate the condition of our own.

We have no such ships as the Royal Albert, the Duke of Wellington, the James Watt, or the Agamemnon. Our most efficient steamship, judging from her service, is the side-wheel Mississippi. And the British board of engineers, appointed to inspect the side-wheel ships of the royal navy during the past year, pronounced them all totally unfit for fighting naval actions. The Mississippi consumes but about twenty-three tons of coal per day, and can cross the Atlantic under steam or sail.

While, in reviewing the condition of our own naval establishment, we cannot but express the confident opinion that, with unequalled mechanical skill, abundant material and resources, we have within ourselves the means of excelling all nations in naval power, we cannot but acknowledge, at the same time, that no branch of the public service has exhibited, within the last twenty years, a more fruitless expenditure of these resources. Forgetful that the purpose, and the only purpose of a navy, is to protect commerce and sustain the interests and honor of the country upon the great deep, and that all expenditures, not immediately conducing to these important objects, should not be charged to the navy, we have wasted millions upon ships which have never made a cruize—upon navy yards, and stations, and naval docks, absolutely useless, and upon chimerical discoveries involving hypothetical improvements, and that, after all, we have not a ship-of-the-line in commission.

The exigencies of naval warfare now seem to demand, as the perfection of naval superiority, the greatest known speed with the greatest known armament.

The British screw ship Himalaya, of nearly 4,000 tons, has made

14 knots; and the battery of the Pennsylvania is 140 guns; a union, then, of these requisites would produce the most formidable naval structure, and their combination should be governed by the character of their destined service. The steamships of a home squadron, with harbors, workshops, and coal-yards, ever under under their lee, may sacrifice power for speed; while ships destined to operate in distant seas, where coal and other supplies are of difficult attainment, should sacrifice speed for power.

The personnel of the navy.

It is not a little remarkable that the American seamen, who, during the war of 1812, fired more rapidly, accurately, and destructively, than those of Great Britain or France, are now far behind them in this respect. We have not retrograded, but we seem to assume that every sailor is born a cannoneer; that artillery practice, on a wave-tossed deck, at an equally unsteady target, comes by nature; and we still permit every man to "sight" his gun as his uninstructed judgment dictates, or, at least, as the officer in command may fancy. While Great Britain and France have, by the establishment of schools of gunnery practice, and by the most assiduous attention to the theoretical and practical teaching of the art, created thousands of thoroughly instructed and practised naval artillerists for their service, we have paid little or no attention to this matter. We have no schools—no such practice—no such skill.

We may build and equip the finest ships in the world, and officer and man them with the best seamen of our country; but if we do not instruct them in the skilful use of their guns, the day will come when their utmost efforts in naval contests will but serve to salute the triumph of their enemies. Long practice only enables the marksman to bring down a bird on the wing; how much more practice would be necessary were bird and marksman both on the wing. And yet there are not wanting men in our navy who deride the teachings of science in practical gunnery, and who, if they do not believe that sailors are predestined cannoneers, seem to regard the art of rapid and accurate delivery of shot and shell as of very little importance, or very readily acquired. Instances have occurred in which our naval vessels have sailed from the United States, and returned, after a two years' cruize, without once having handled a shot or fired a gun. Can seamen, under such circumstances, their very first artillery practice being perhaps in the midst of an engagement, contend with skilful and practised artillerists, equally brave and far more cool, because doing only that with which they are familiar?

We think not, and we deem a school for the education of naval gunners as essential to the service. It cannot be concealed that some most culpable negligence, heedless extravagance, and wasteful expenditure, to say the least, have characterized the service of late years; and that attempts to place the parties responsible for it before the country have failed. It is needless to call attention to special instances.

The Secretary of the Navy should in all such cases be held responsible in the first instance. He possesses ample power to protect the

public interests confided to him; power to compel every officer promptly to do his duty or to suffer disreputable furlough; power to enforce gunnery practice at sea or in port; power to preserve a just and fair distribution of the toils and indulgencies of the service; power to prescribe relative rank; power, in short, to breathe into his noble profession life, activity, and zeal, by teaching the officer whose cruize is in the tropics or on the African coast that his chances for just and honorable employment and advancement are equal to those whose cruize is within the precincts of Washington.

It is not the purpose of your committee in this report to do more than advert to *some* of the prominent defects of the naval service—those most urgently demanding, and most susceptible of reform; and discarding the consideration of minor evils, it comes at once to the—

Rank, pay, and promotion of the navy.

It is evident to all conversant with the subject, that we have more commissioned and non-commissioned officers of the several grades than are necessary or useful to the present naval service; and that a just regard for the public interest requires, not only that many should be retired or furloughed, but that the present manner of appointment to the service, for obvious reasons, should be changed.

We have endeavored to find employment for supernumeraries in the coast survey, and as assistants to the light-house board. But such employments, which are more properly those of civilians, we cannot but regard as calculated to impair the general usefulness of an officer in his legitimate vocation.

His noblest aim should be to protect the honor and the interest of the country by his ships and guns upon his peculiar theatre—the sea. Some of the most accomplished young officers in the service are at this moment engaged upon what is termed the *hydrographical* branch of the survey, whose frequent duty is making those soundings with a line or pole, with which all boatmen are familiar, *and reducing* the same upon maps. Others are appointed to do the duty which our collectors of the customs always performed, and performed well, until the light-house board was devised.

What can be more foreign to the tastes and pursuits, what more destructive to the professional ambition of a young officer, than travelling about in railroad cars, stages, or lighters, from light-house to light-house, inspecting the cleanliness of the towers and the keeper's premises, the kind and quality of lamp oil, wicks, and buff-skins used, and reporting their keepers' special qualification?

The sea is a jealous mistress, whose honors are yielded only to the assiduous; and we cannot but regard the labors of her votaries upon these services as calculated to wean them from, and unfit them for, their first love. A retired and furloughed list will relieve the service for a while, but the supply of officers being greater than the demand, we should begin by restricting the appointment to the naval academy to about one-half the number now made.

Promotion in the service is regulated exclusively by seniority of commission, a system, in the judgment of your committee, preferable to

ery other, if all officers be qualified to perform their duties in the st manner. But without some provision for the disqualifications of e, and its frequent mental and physical imbecility, and for other disalifications, an exclusive regard to seniority, constituting the date of nmission the controlling element of promotion, is "a mockery, a lusion, and a snare."

It reverses the experience and the daily practice of prudence, which crusts not the ordinary affairs of life to agents whose powers are on decline.

If there be any profession which more than another demands from votaries all the energy, power, daring, and will of our race, it is it of the seaman. It demands all the powers of man, and no great iman within the last century has ever excelled in any other profesn. The rule should evidently be, that, as the magnitude and imrtance of any naval operation increase, the chances of consigning o the hands of ability, energy, and daring, should increase; but the ry reverse is our practice. The older a man is the more is he titled to command; and if Nelson himself were alive, and were to ter our service regularly to-morrow, he would find himself without ik or command, and comparatively without pay. What would be ought of this blind regard for seniority in other departments of the intry?

Suppose we should declare by law that members of the United ites Senate should be the oldest representatives from a State, who in eir turn should be the oldest members of its legislature, or that the istrict judges should be taken from the oldest lawyers, the circuit m the oldest district judges, and the Supreme Bench be supplied from e oldest circuit judges. Such a proposition would shock the common ise of the country; and yet this principle governs naval promotion.

Apart from all other considerations, the present system tends to check e ardor and to deaden the ambition of the whole corps, by sustain- and perpetuating injustice. A seaman's ability to play a seaman's rt depends much, very much, upon his sea service; and had we a val contest to-morrow, the common sense of the country would not erate the appointment of any man to active service who was not *niliar*, and thoroughly familiar, with the handling of ships and fleets der all circumstances. Yet we find from the returns before us that t of sixty-eight captains *forty-two* are waiting orders on shore, at a lary of $2,500 per annum, (six of whom were severally last at sea 1816, '28, '31, '34, '38, and '39,) making an aggregate of $105,000.

Of ninety-eight commanders, (seven of whom were last respectively sea in 1815, '29, '29, '33, '34, '36, and '38,) there are waiting ord. rs ty-two, at $1,800 per annum—an aggregate of $76,000.

Of three hundred and twenty-six lieutenants, there are waiting orrs fifty-nine, at $1,200, making an aggregate of $70,800.

Of one hundred and ninety-eight passed midshipmen, there are but *ht* waiting orders at $600—$4,800.

And that while there are seven captains and commanders who have en each forty-one years in the navy, and who are now receiving reectively $2,500 and $1,800 and yet have seen *less* than ten years' sea

service, there are forty-three passed midshipmen who have seen over ten years' sea service, and who are receiving but $700 per annum.

A glance at our naval captains will illustrate what the history of all naval service proves. Paul Jones captured the Serapis, in one of the most desperate and memorable combats on record, at thirty-two years of age. Hull conquered the Guerriere at thirty-eight, Decatur burnt the Philadelphia at twenty-seven. Perry conquered on Lake Erie at twenty-eight, and McDonough on Lake Champlain at thirty-one. Stewart captured the Cyane and Levant at thirty-nine, and Bainbridge the Java at thirty-one. The youngest victor was twenty-seven, and the oldest but thirty-nine, and thirty-three was their average age—less than that of many of our passed midshipmen.

The naval academy has given, and is giving to the country, officers not only thoroughly educated for the duties of the service, but whose character and ability would adorn any profession. These are the men who will be called upon in the command of our fleets and ships, not only to contend with the ability and advancement of European navies, but as protectors of the rights of American citizens and property in foreign seas and countries—a knowledge of the institutions, government and commercial systems of maritime powers, and a general acquaintance with the laws of nations, and of the rights, duties, and obligations under them, will be demanded of them.

They act sometimes as negotiators of treaties, as warriors, as judges, as pacificators. To fight his ship well is an essential, but far from being the most important, duty of an accomplished seaman, and his country's interests and honor depend fully as much upon his services in peace as in war.

Unlike the army, which, in peace, serves but as a stationary nucleus for future organization—our frigates are the eyes of our government; and penetrating every sea, and watchful of passing events, the navy is at once the messenger of our peace and of our ability for war.

Such men, educated at the country's expense, should be employed in responsible positions at the period of their greatest usefulness—and to attain this object your committee recommends and provides for a retired list and a permanent furlough list.

A just distinction should be made between the gallant old seaman, whose soul is still in his profession, whose heart beats but for his country, but who is disqualified by long, faithful, and honorable service or disease acquired in the active discharge of his duty—and the man who has uniformly and ingeniously contrived to evade his sea duties and devolved them upon others—who has succeeded by political influence, or other resorts to which his noble profession should be a stranger—in passing the best of his days upon shore—the man, in short, who is unworthy from his own course or from original want of merit. To meet this distinction, your committee has provided two lists varying in pay and privilege. At this time we have sixty-eight captains, the youngest of whom is fifty-six years of age; ninety-seven commanders, seventy-four of whom are between fifty and fifty-five, and the youngest of whom is forty-six; three hundred and twenty-seven lieutenants, from thirty to fifty; one hundred and ninety-eight passed midshipmen, from *twenty-one to* thirty-seven years of age.

Your committee, after carefully examining the rates of promotion in the several grades, and the average age of officers, find that under the present system lieutenants when promoted to commander's will be fifty-three, and commanders, when promoted to captains, *seventy-four years of age.*

What a commentary upon our present system!

In referring to the grade of captain, your committee desires to express its conviction that many of its members have never been surpassed by those of any naval service in that rare combination of character, talent, and ability, which characterise the accomplished seaman.

Your committee recommends and has provided for an increase of the wages of the naval seamen. This measure is absolutely necessary. Great difficulty is experienced in obtaining seamen.

This difficulty, which has also embarrassed the British navy, has been to some extent the result of the vast increase of our coastwise, and particularly our California trade, and the consequent demand for sailors, at largely increased wages, with the additional stimuli of short voyages and chances of promotion to the posts of mates and masters, while the wages and condition of the naval seamen, remain unchanged. Few sailors will ship for the navy at twelve dollars per month, when any man who can splice and steer can get twenty-five in the merchant service.

Provision is also made for ascertaining and rewarding merit, by extra pay and a medal; and the naval academy, and the highest honors of the profession, are held out to the sailor boy whose character, conduct, and capacity may entitle him to the fostering hand of the government.

Attempts are frequently made, by polling the companies of our ships, to determine the proportion of American born or naturalized citizens composing them, and this proportion is found to be less than one-third; the rest are seamen from all the maritime nations of the earth; and all the principal languages of Europe, and the dialects of the Sandwich Islanders and Malays are not unfrequently heard in our ships.

It is unnecessary to comment upon the impolicy of committing the honor of the flag to such hands. We can obtain the best of our seamen by increasing the pay, as provided for in the bill, and by the maintenance of good discipline.

The latter measure is of the gravest consequence. Since the abolition of flogging, the discipline of the navy has become relaxed to an alarming extent, and even the show or pretence of it cannot always be maintained. Insubordinate and mutinous conduct, and an utter disrespect to rank and station, are of every-day occurrence; and unless legislation shall place in the hands of the officer some corrective, the scenes of the Bounty and the Nore may be re-enacted in our own service.

The means of inflicting any punishment on board our ships, where "every man has his place and there is a place for every man," are, necessarily, very limited; and those corrections which are now resorted to by commanders are sometimes the most novel, and often the most humiliating to a sailor.

Confinement is not, to the idle and vicious, a punishment. Proper attention to the offender's health requires him to have air and light; and he is surrounded by his shipmates, and often by his sympathizers; the busy hum of their voices reaches his ear; conversation is indulged in for his benefit, and he learns daily all that his messmates can know—that is, all which is passing in their little world afloat. His tobacco, and his meals, are regularly furnished him; his clothes are washed, and his wants attended to by his shipmates, and he regards his position rather as a triumph than as a punishment, for he has devolved upon others the duty which he determined not to perform himself.

Our commanders are now lashing offenders by the wrists to cross beams; lashing them up in their hammocks; pumping cold water upon them; "*bucking*" and "*bagging*" them; and resorting to many other novelties unknown to the seas heretofore; but under any circumstances the prompt performance of the daily routine of duty, as a general thing, cannot be enforced. Imprisonment or confinement of the men cannot extend to many without materially impairing the ability of the ship's company. An increase of the pay, and holding out extra pay, certificates of conduct, and medals for merit, will doubtless obtain a better class of seamen—and for these the bill provides.

Your committee has provided for, and recommends, that the sixty-eight captains now in service shall be divided into the grades of commodore and captain, and that there be twenty commodores.

The assistant purser's grade is also created, and is deemed very necessary. Young men familiar with accounts, and pronounced by a board of examining pursers competent to perform their duties, will enter the service at a moderate salary, and supply the grade of purser with active and skilful members as vacancies may arise.

The Bureau of Equipment, Orders, and Details, and the appointment of a judge advocate general, are measures of urgent necessity, and will greatly advance the true interests of the service.

Your committee abstains from presenting, in one bill, that thorough organization of the navy which, in its judgment, is demanded, and which it brought forward at the last session of Congress; but the adoption of the provisions now presented will go far to advance and maintain the sources of our naval power.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 272.

IN THE SENATE OF THE UNITED STATES.

May 19, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

The Committee on Private Land Claims, to whom was referred the memorial of Sarah D. Brigham, praying permission to locate land within the limits of the DeBastrop grant, have had the same under consideration and submit the following report:

The only paper in this case is the memorial.

The committee are willing to admit all the facts stated in the body of the memorial, which alleges that the memorialist is residing upon and cultivating a plantation in Prairie Jefferson, within the DeBastrop grant, and consists almost entirely of prairie, and that a large body of woodlands lie adjoining her said plantation; and she prays that Congress will pass a special act authorizing her to enter 640 acres of the said woodland, at one dollar and twenty-five cents per acre.

Your committee deem it highly inexpedient to legislate specially for an individual who acknowledges that she has no other claim to lands in question than the community at large. If, because the plantation of the memorialist consists of prairie, and the government owns timberlands adjoining, the committee should grant this prayer, manifest injustice must result to others, and there would be no end to the importunities from others similarly situated.

Your committee believe that sound policy would dictate that no special act should be passed, unless all persons, under like circumstances could have the same relief. They therefore report back the memorial, with a recommendation that the prayer be not granted.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 273.

IN THE SENATE OF THE UNITED STATES.

May 19, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

The Committee on Private Land Claims, to whom was referred the petition of F. A. Underwood and H. A. Crane, heirs of John Underwood, praying the confirmation of their title to certain land, have had the same under consideration, and submit the following report:

The petitioners claim five miles square (16,000 acres) of land in the State of Florida, under and by virtue of two concessions to Jehu Underwood, deceased, from the Spanish government.

The first concession bears date May 20, A. D. 1805, and signed by "White," then governor of Florida, and is in the following words and figures, to wit:

"I grant permission to Mr. Jehu Underwood, a new subject of his Majesty, to build two water sawmills upon the creeks called Dunn's Creek and Deep Run, situated on the margin of the river St. Mary's; which said creeks are situated, the first about three miles west of Pigeon Creek, bounded on the north by the said river St. Mary's; and the second about ten miles from the first, bounded in front by said river St. Mary's; *it being well understood that he shall only take the necessary land for building the water sawmills, being privileged to cut timber upon all the vacant lands*—and under the circumstances that this permission is granted, without injury to third persons.

"St. Augustine, Florida, *May* 20, 1805.

"WHITE."

The concession bears date May 16, 1818, and signed by "Coppenger," then governor of Florida, and is in the following words and figures, to wit:

"St. Augustine, *May* 16, 1818.

"It having been proven, by the preceding testimony, that Don Jehu Underwood built a water sawmill at the place known as Black Creek, situated about three quarters of a mile south of the river St. Mary's, since the year eighteen hundred and five, when permission was granted him by this government; which said mill he continued in operation until eighteen hundred and twelve, when it was burned and destroyed by the Indians, and now, as he has stated and proven by one witness, he has rebuilt; taking into consideration the losses which he has sus-

tained, and the benefit and utility which should redound to the settlement of this province by the establishment of said machinery—*it is granted to him that he may use the pines and other timber embraced within the square of five miles*, in order that he may enjoy the benefit thereof, without other persons interfering with anything at said place.

"Let these proceedings be filed, and the said Underwood provided with copies of this decree, that it may serve him as security of proof of the grant.

"COPPENGER."

It also appears that in June, 1820, and April, 1821, three several surveys were made in different localities, which, in the aggregate, amounted to 16,000 acres of land.

To sustain their claim and title to the said five miles square of land, and to prove that the language made use of in the said two concessions was a grant in fee simple of the said 16,000 acres, the petitioners refer to the case of United States *vs.* Richard, 8th Peters, page 470, and United States *vs.* Clarke, 9th Peters, page 168.

The case in 8th Peters, referred to, was upon a decree or grant, in which the following language was made use of, to wit:

"License to construct a water sawmill on the creek known by the name of Pottsbury, bounded by the lands of Strawberry Hill; and this tract not being sufficient, I grant him the equivalent quantity in Cedar Swamp, about a mile east of McQueen's mill, but with the precise condition, that as long as he does not erect said machinery, this grant will be considered null and without value or effect, until that event takes place; and then, in order that he may not receive any prejudice from the expensive expenditures which he is preparing, he will have the faculty of using the pines and other trees comprehended in the square of five miles, or the equivalent thereof, which five miles are granted to him in the mentioned place, the avails of which he will enjoy without any defalcation whatever."

Chief Justice Marshall, in delivering the opinion of the court, says:

"The concession is loosely worded, but is understood to allude to land. After granting permission to build a mill on the place designated, the governor adds 'and this tract not being sufficient,' plainly indicating the tract on which the mill was to be constructed, 'I grant him the equivalent quantity in Cedar Swamp.' The word 'tract' means land, not timber; and the words 'equivalent quantity' refer to the antecedent word, 'tract,' and consequently also mean land. After stating the condition of the grant, he adds 'which five miles are granted to him in the mentioned place.' * * It is difficult to conceive any motive for granting the timber and withholding the land. That could not be granted to or used by another while the right to the timber existed. It is not to be believed that the government wished to restrain the grantee from cultivating a part of it. The judge of the Superior Court construed this concession to be a grant of land, and we concur with him in this construction."

The language made use of in this concession, differs materially from that made use of in the two concessions to Underwood.

The governor, in the case of Richard, grants a tract "equivalent in quantity in Cedar Swamp," and adds, "which five miles are granted to him in the mentioned place," but in his grant of 1805, to Underwood, he says: "It being well understood that he shall only take the necessary land for building the water sawmills, being privileged to cut timber upon all the vacant lands."

The petitioners, therefore, to sustain their title under the concession of 1805 to the five miles square of land, must necessarily assume that the five miles square of land was "well understood" to be the quantity of land necessary "for building the water sawmills;" or they must assume, that "being privileged to cut timber" granted the fee simple of the land. The first assumption is certainly absurd; the second must lead them into a dilemma; for if the privilege "to cut timber" carries with it absolute ownership to the soil, Underwood under this grant became the absolute owner of "all the vacant lands" in Florida, he "being privileged to cut timber upon all the vacant lands."

In the concession of 1818, the following language is made use of: "It is granted to him that he may use the pines and other timber embraced within the square of five miles;" waiving the illegality of a grant of lands made after the 24th of January, 1818, by the Spanish government, if the right to "use the pines and other timber embraced within the square of five miles" grants the fee simple, then is this concession of 1818 a work of supererrogation and of no legal effect whatever, since we find that under the concession of 1805, by a parity of reasoning, "all the vacant lands" would have been granted to Underwood.

The hypothesis, that "being privileged to cut timber," or "to use the pines and other timber" upon lands, conveys the land upon which such timber or pines may be growing, without some other expression to indicate that the grantor intended to convey the soil, is as erroneous in law as it is repugnant to common sense.

But to remove any doubt that may exist as to the intention of the governor, or the construction put upon the concessions of 1805 and 1818, by the grantee himself, we refer to the petition of Underwood, dated on the 20th May, 1818. Two days after the concession last above mentioned, in alluding to the decree, he says: "By which decree your excellency has been pleased to grant him only the use and benefit of the pine and other timber embraced in the square of five miles. But as your petitioner has obtained no grant of lands for cultivation, &c., he prays your excellency will be pleased to grant him, in absolute property, six hundred acres of land around the said water sawmill," &c. And the governor upon the same day, 18th of May, 1818, issues a decree in which he says: "There are granted to him, in absolute property, the six hundred acres of land which he solicits," &c.

Your committee are therefore of the opinion, that the petitioners have no legal or equitable claim to the five miles square of land under and by virtue of the concessions above set forth. They report back the petition, and recommend that the prayer of the petition be not granted.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 274.

IN THE SENATE OF THE UNITED STATES.

May 19, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

[To accompany Bill S. 263.]

The Committee on Private Land Claims, to whom was referred Senate bill No. 263, "A bill to confirm the claim of John Ervin to a certain tract of land in the Bastrop grant," have had the same under consideration and submit the following report:

The only evidence before the committee to sustain the bill is a report submitted on the 20th January, 1852, by Mr. Downs, from the Senate Committee on Private Land Claims, in which the committee state that "the petitioner represents, and the evidence sustains, his averment that, twenty-three years since, he settled on and improved a tract of land in the Bastrop claim, in Louisiana, and has resided on and cultivated it ever since; that long previously to his settlement, this land had been sold by the grantee to Ballinger, who, after having made some improvements on it, abandoned it and left the country, and has not been heard of since, nor has any agent or heirs appeared, or been heard of, to act for him; that, in consequence of this absence, petitioner has not been able, as he intended to do, to purchase the title of said Ballinger, but that he has held peaceable and uninterrupted possession of it long enough to give him a title by prescription against all claimants, except the United States, under the laws of Louisiana; that an act of Congress, passed at the last session, (3d March, 1851,) intended, among other things, to give a donation claim to such settlers, for over twenty years, as he is, but that it has been decided not to embrace his case, because he has not a written title from Ballinger, holding under the original grantee; that he was a pioneer in the wilderness when he settled this place, on which, by his own labor and that of his family raised on it, he has made considerable improvements; that he is now old and infirm, and prays that he may be confirmed in his title to said land, to the extent of six hundred and forty acres, the quantity granted by the act of the 3d March, 1851, to other claimants under the grant, who have occupied and cultivated the land for more than twenty years.

The committee are of opinion that his case comes within the spirit of the act of 3d March, 1851, referred to in the petition, and other acts allowing *donation claims to early* settlers in remote frontier districts of

country, and report a bill accordingly, and recommend its passage, guarded in such manner as not to affect the rights of others."

The bill now referred to the committee is a copy of the bill reported in 1852, by which it is proposed to confirm the title to 640 acres of land to the said petitioner.

Whilst the committee are willing to admit the facts, as stated in the report, to be true, they must dissent from the conclusions thereon. This case does not come within the spirit, nor the letter, of the act of 3d March, 1851, granting 640 acres "to all *bona fide* claimants by purchase from DeBastrop, or those claiming under him, where the land has been occupied and cultivated for twenty years."

The very basis of such grant must be the purchase from DeBastrop, or those holding under him; in this case, the petitioner was a trespasser upon the land and the rights of Ballinger, the grantee of DeBastrop, if the title had been in the original grantee; and, therefore, the petitioner held adversely to Ballinger, and could not be entitled to the benefits derived under that part of the act of 3d March, 1851, above alluded to. The construction, therefore, given to the law in the report, was not within the spirit, but was in direct opposition to that portion of the law. To make this appear more clear that Congress did not intend to have such a construction given to this first section of the act, they provide, in the 5th section, "that every *bona fide* settler, on any part of the said land, at the time of the extension of the public surveys over the same, who is a man of family, &c., and who, but for the reservation heretofore made of said lands for the claim of the said Bastrop, would have been entitled to a right of pre-emption, under some of the pre-emption laws, be, and he is hereby, authorized to enter the quarter section so resided on, &c." This provision, then, is applicable to the petitioner, and he has his remedy under it.

The committee are of opinion that expediency and justice, alike, forbid this confirmation, since great injustice would be done to other claimants similarly situated; they are only entitled, by virtue of their pre-emption, to enter 160 acres, when it is proposed, in this case, to confirm 640 acres to the petitioner without the payment of the purchase money.

The committee do not feel authorized to make this discrimination; they therefore report back the bill, with a recommendation that it do not pass.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 275.

IN THE SENATE OF THE UNITED STATES.

May 22, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

The Committee on Agriculture, to whom was referred the petition of citizens of Shenandoah county, Virginia, and Thomas S. Ridgeway, respecting the potato disease and its remedy, report:

It appears from the memorial addressed to Congress that the petitioners request that experiments should be made, under the direction of the government of the United States, for the discovery of some new method of cultivating the potato.

Your committee have many doubts of the propriety of making those experiments under the direction of the government. It can be more perfectly executed by the various agricultural societies in the different sections of the country, and under the advantages of a great variety of soil and climate.

Your committee request to be discharged from a further consideration of the memorial.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 277.

IN THE SENATE OF THE UNITED STATES.

May 22, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

[To accompany Bill S. 289.]

The Committee on Private Land Claims, to whom was referred Senate bill No. 289, "A bill for the relief of Margaret A. Copley, of the State of Louisiana," have had the same under consideration, and submit the following report:

It appears that George W. Copley purchased at sheriff's sale a parcel of land, situate upon Bayou Bartholomew, in the parish of Morehouse, Louisiana. The execution plaintiff was said Copley, and the execution defendant was one Alexander D. Peck.

It appears that in 1845 the collectors of taxes seized and levied upon the land in question for the taxes due thereon for the year 1844, which was assessed in the name of Lambeth & Thompson, non-residents of said parish, and was described as being situate on the Bayou Bartholomew, and containing eight hundred acres; and on the 5th day of May, 1845, the said collectors of taxes sold one hundred acres of the aforesaid tract to the said Alexander D. Peck for the sum of seven dollars and eighty-four cents, being the amount of taxes and costs upon the whole of the said tract of land for the year 1844; all of which appears by certified copy of a deed from the said collectors of taxes to the said Peck.

The lands are situate within the De Bastrop grant, and it does not appear from whom the said Lambeth & Thompson held their title, nor neither does it appear that said Peck held any title or made any claim to any other lands than the 100 acres so purchased at tax sale. The sheriff, however, levied upon and sold the whole of the 800 acres as the property of the said Peck, who also joined in the deed of the said sheriff.

These lands, lying within the De Bastrop grant, were government lands, and consequently were not liable to taxation; hence the sale of 100 acres to the said Peck for taxes was of no legal effect. Yet admitting that he went into possession under color of title, the most that he could claim was the 100 acres.

From the fact that the said Peck joined in the deed to the execution plaintiff, thereby representing himself as the owner of the whole tract, and still continuing in the possession thereof, does appear as if there

was some collusion and fraud between the said Copley and the said Peck.

If the said Lambeth & Thompson are the grantees of De Bastrop, or those who derived title under him, and can bring themselves within the requirements of the act of 1851, it is evident that they would have the right to enter the said lands as against all other persons whatever. The bill under consideration grants the right to Margaret A. Copley to enter the said lands at the minimum price of public lands.

The committee are of opinion, from the facts stated above, that manifest injustice would be done to others in the passage of this bill. They therefore report the same back, and recommend that it do not pass.

IN THE SENATE OF THE UNITED STATES.

MAY 23, 1854.—Ordered to be printed.

Mr. STUART made the following

REPORT.

[To accompany Bill S. 379.]

committee to whom was referred the petition of Samuel Colt, for an ex-
ision of letters patent granted to him on the 25th of February, 1836,
er an attentive examination of the evidence presented to them, report the
lowing facts, and their conclusions thereon:

irst. That Samuel Colt was the first and original inventor of the
ovement in fire arms which bears his name; and that the inven-
was made anterior to the year eighteen hundred and thirty-one,
in that year, incorporated in an operating weapon; but, in conse-
ce of the great difficulty encountered in producing an arm of this
that could be used with safety, the patent for it was not taken out
ne year eighteen hundred and thirty-six:

cond. That Mr. Colt and his friends formed themselves into a com-
, with the name of the "Patent Arms Manufacturing Company,"
r an act of incorporation granted by the legislature of New Jersey,
oved March 9, 1836. The authorized capital of this company was
hundred thousand dollars, in three thousand shares; of which two
red and thirty thousand dollars were subscribed. The company
into operation in the year eighteen hundred and thirty-six, under
management of Mr. Colt, the inventor. The great expense of
inery, and the practical difficulties which attended the introduc-
of this new principle into the construction of fire-arms, rapidly ex-
ted the resources of the company; and after a struggle of six years,
rmory was sold out by a decree of the court of chancery, in New
y. The entire capital had been lost, and Colonel Colt was left
ily in debt. The patent itself had been transferred to the com-
, but was considered so nearly valueless that, in 1842, it was not
d for sale:

hird. That, in the year eighteen hundred and fifty, the original
of Mr. Colt's patent had expired; and an extension of it having
granted by the Commissioner of Patents, Mr. Colt repurchased it
a receiver in chancery, who had been appointed to wind up the
s of the Patent Arms Manufacturing Company. Thus Mr. Colt
me again possessed of this patent, which had been out of his hands
its original grant till the year eighteen hundred and fifty; and, in

the prosecution of which, he and his friends had lost, up to that time, more than two hundred thousand dollars:

Fourth. That, in the year eighteen hundred and forty-eight, Mr. Colt commenced, in a small way, to manufacture arms for the government—employing, however, the capital of others, because he had no capital of his own; and that, until his patent was extended, he was never able to command capital necessary to establish an armory suitable for the manufacture.

Your committee are also satisfied, from the evidence and from the exhibition of the arms themselves, that a successful and beneficial manufacture of them requires the application of a great variety of expensive machinery, and that cheapness and perfection are attainable by its use alone; that Mr. Colt has, since he became the owner of his patent, according to the evidence before the committee, invested all the money which he has been able to command, in the development of a system of machinery, by the use of which the highest degree of perfection in his arms can be attained; that already there has been invested between three and four hundred thousand dollars in this way, and that the works are not more than one-third completed, and that it will require at least five years more to carry out the present plan; that a large proportion of this property is suited to no other business than the manufacture of Colt's arms, and would not be worth more than one-fifth of its cost if otherwise employed; that imitations of Colt's arms are made of cast iron, and other imperfect materials, at a cost less than that at which Mr. Colt can, in the present condition of his works, produce perfect forged steel arms, and so much like the genuine article in appearance as to deceive the purchaser, to his great risk and injury; and that, should not this patent be extended, the market will be filled with spurious and dangerous imitations, sold at a smaller cost than the genuine arms can be made for, and thus completely ruin the business which Mr. Colt has, through so many difficulties, established, and strip him of the capital already irretrieveably fixed in the machinery and tools of his armory. If, however, the extension should be granted him, Mr. Colt expresses it as his firm conviction that he will be able so to perfect his armory, by the increase and subdivision of machinery, that he will be able to furnish to the public a perfect arm at a price which will defy the competition of spurious imitations. The experience of the past shows that the same, or similar, arms, which in 1838 could not be sold for less than forty-five dollars, can now be sold for sixteen dollars, and that the price is every day increasing, thus justifying, as the committee believe, the expectations of the inventor.

Your committee understand that the object of the patent laws is to benefit the community by giving encouragement to men of genius to devote their talents, energies, and time to the public good; that part of the profits of an invention, which an inventor is to receive, should bear some proportion to the entire value of his improvement; and the greater its value, the more the public benefactor is entitled to. In dealing with those men whose genius has benefitted the whole country, and reflected honor upon her character and reputation, the country can well afford to be liberal, both as a mark of gratitude to them, and as an encouragement to others.

In this particular case, according to the evidence before the committee, Mr. Colt has devoted twenty-two years of his life to this invention. From the year 1831 till 1849, it appears that not one dollar of profit had been realized out of the improvement, but that more than two hundred thousand dollars had been actually lost. It appears that now the inventor is just in the midst of a successful effort to bring his invention to perfection, and asks the privilege to accomplish this object himself. When that has been effected, he says he shall need no further protection by means of a patent, and will be able to defy all competition. No one interfered with him, or helped him for seventeen years, when his invention was considered a failure; but now that the point of success has just been passed, and the arm is proved to be valuable, he complains that infringers stand ready to ruin him before he has completed his plans for their manufacture. Under the circumstances of the case, the committee think Mr. Colt should be permitted to carry out his invention to its ultimate perfection; and that no one would be benefitted by throwing open the manufacture to the competition which would destroy the production of perfect arms, and fill the market with spurious imitations. In this view of the case, therefore, the committee cannot avoid the conclusion that the public would be benefitted by the extension of the patent for seven years; thus giving the inventor fourteen years of the exclusive enjoyment of his invention.

Viewing the case as a question of profit and loss, the committee do not think the accounts show that Mr. Colt has been rewarded in proportion to the value of his invention. On one side of the account is stated an actual loss of two hundred and thirty thousand dollars, ten years ago; which sum, if invested in any profitable business, would now amount to half a million of dollars; and to which are to be added twenty-two years of continual labor of the inventor. Many of those years have been passed in poverty and distress. On the other side of the account is a capital of about three hundred and fifty thousand dollars, invested in machinery and tools, valuable for the manufacture of the arms, and comparatively worthless for any other purpose. Such are the facts, according to the evidence before the committee. If Mr. Colt can be permitted to prosecute his plan, and to perfect it, he will be rewarded for his invention at a future day; if not, his present success will be no compensation for the future loss of his present property.

The committee have examined the decision of the Commissioner of Patents, which was made last year, on an application by Mr. Colt for an extension under the act of Congress. That application was made for the extension of another patent for a different subject, and not for the one now before Congress; and was based upon a point of law entirely. The opponents, it appears, took testimony as to profits, which testimony was *ex parte*, and upon an assumption of certain facts which the committee have good reason to believe, from the evidence before them, to be incorrect; but as the counsel for Mr. Colt was not present, and as Mr. Colt's application proceeded on another point entirely, no notice, it appears, was taken of the error at the time. As evidence of the loss sustained by Mr. Colt in his contracts with the government of the United States, and upon which Mr. Colt is alleged to have realized a large sum of money, the following affidavit is submitted:

STATE OF CONNECTICUT, *ss:*

Samuel Colt, of Hartford, being duly sworn, deposeth and saith: That he entered into a contract with the government of the United States in the latter part of the year 1846, for the manufacture and delivery to the government of one thousand repeating dragoon pistols, for which the government paid the sum of twenty-eight thousand one hundred and fifty dollars, as it appears by the accounts of this deponent; that the contract was closed in the fall of 1847 by the payment of the money and the delivery of the arms; that the arms were constructed with as much economy as this deponent was able to exercise in their manufacture, and that he attended personally to their construction; that he now has the accounts before him of the disbursements made for materials, work, and incidental expenses in their construction, and that this deponent paid twenty-seven thousand and sixty-three dollars and eighty-one cents, as the accounts show, leaving a balance of seven hundred and eighty-six dollars and nineteen cents, after these payments were made, with which to pay travelling expenses, and the personal expenses of this deponent, and his attention to the manufacture for nine months. And this deponent saith that the whole profit which he received out of the contract was not sufficient to pay his board bills at his boarding-house, and that he was compelled to postpone their payment till he could get the money from another source. And this deponent further saith, that since the year 1847 he has supplied the government with four thousand pistols, and that the accounts show that the government was supplied with the three thousand, before the last thousand, at an actual loss of profit to this deponent of more than two thousand dollars, but that he continued to supply the arms under this constant loss for the purpose of submitting them to the test of actual service, and benefitting by the experience which could thus be gained. And this deponent further saith, that the profit on the last thousand arms sold to the government is not equal to the loss of profit resulting from the contract with the government to supply the three thousand arms which were sold to the government next before this last contract was executed, as it appears by a comparison of the cost with the prices at the times of the respective contracts.

SAMUEL COLT.

Sworn and subscribed before me this 5th day of May, A. D. 1854.

FRANCIS FELLOWES,

United States circuit court comm'r for the dis't of Connecticut.

The committee, therefore, recommend the passage of the accompanying bill, reserving to the government the right to manufacture Colt's arms for their own use in their own armories.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 280.

IN THE SENATE OF THE UNITED STATES.

May 23, 1854.—Ordered to be printed.

Mr. Clay made the following

REPORT.

[To accompany Bill S. 381.]

The Committee on Pensions, to whom was referred the petition of William Brown for pension, beg leave to report:

That this case has been twice examined by committees of the Senate, and in each instance a favorable report was made, accompanied by a bill for his relief. The report of the Committee on Naval Affairs, made May 30, 1844, sets forth the facts of the case, as shown by the papers; and your committee, fully concurring in the views expressed in that report, adopt it as part of this, and submit a bill granting the petitioner a pension from the 30th May, 1844, at which date his proofs were completed to the satisfaction of the Naval Committee.

In Senate.—February 20, 1851.

The Committee on Pensions, to whom was referred the petition of William Brown for a pension, report:

That said petition was referred to the Committee on Naval Affairs on the 20th of May, 1844, and on the 30th of the same month that committee made a favorable report, accompanied by a bill for the relief of the petitioner. On examining the papers referred with the petition, the committee concur in the views expressed in the said report of the Committee on Naval Affairs, adopt it, and recommend the passage of the accompanying bill.

May 30, 1844.

The Committee on Naval Affairs, to whom was referred the petition of William Brown, report:

That it appears the petitioner was one of the crew of the United States frigate Constellation, and served as a powder-boy during the

engagement of that ship with the French frigate l'Insurgente, on the 9th of February, 1799, which resulted in the capture of the latter. During the engagement, the petitioner was wounded in the foot, which has made him a cripple ever since. When the papers of the petitioner, establishing the fact and extent of his disability, were filed with the Commissioner of Pensions, that officer, supposing that the claim was founded on the eighth section of the act of 1800, rejected the claim, on the ground that the injury was anterior to the passage of the act, which was prospective only. In point of fact, however, the claim of the petitioner is covered by a similar provision for a pension to those disabled in the line of duty, in the eleventh section of the act of July 1, 1797, entitled "An act providing a naval armament," and under which the frigate Constellation, together with the frigates United States and Constitution, were manned and employed. That act was temporary, but did not expire by its limitation until the 4th of March, 1799, and the injury was received by the petitioner on the 9th of February in that year. It appears by the letter of the Commissioner of Pensions, dated May 28, 1844, that the proof in the case is satisfactory, but that a rule of the department prevents his exercising any discretionary power. The rule alluded to is that which excludes all evidence of the injury but record evidence after the lapse of twenty-five years. As there is no doubt of the identity of the petitioner, and satisfactory evidence of the fact that he was wounded in his foot during the engagement of the Insurgente, and that he is now and has always been a cripple from that cause, the committee are of opinion that he is entitled to a pension under the provisions of the act of July 1, 1797, and report a bill for his relief.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 281.

IN THE SENATE OF THE UNITED STATES.

May 23, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of John H. Hand, beg leave to report:

That the petitioner claims to have served in the United States army, in the ordnance department, and as a volunteer in Col. P. F. Smith's regiment in Florida, and that from exposure and hardship he contracted rheumatism to such an extent as to disable him from labor. No proofs of any kind accompany the petition. Upon addressing the Commissioner of Pensions, it was made to appear that the rolls afford evidence of his service for three months in Florida, and his honorable discharge upon expiration of service. No evidence of sickness or disability is, however, to be found. Upon presentation to the bureau of proper proofs that he is now disabled, and that his disability results from disease incurred in service, in the line of his duty, Mr. Hand will find no difficulty in obtaining a pension under existing general laws. It is recommended that his petition be rejected.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 282.

IN THE SENATE OF THE UNITED STATES.

May 23, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Gideon Prior, report:

That the petitioner claims to have served in the revolutionary war under Count de Rochambeau, as a teamster in the train commanded by Colonel Wadsworth; that he entered the army in May, 1781, and was discharged December, 1781, making eight months in all. He was engaged in supplying the works erected at the siege of Yorktown with ammunition, and was as much exposed to danger as if he had borne arms; that he entered, in 1782, on board a privateer, under commission of government, and was captured and remained some time in captivity, being compelled to do duty on board the British fleet until the end of the war, when he was put on shore at the island of Antigua, without money or friends. For these alleged services he now, at the age of eighty-nine years, asks Congress to grant him a pension.

Accompanying the petition there are no proofs whatever of the services alleged therein. There are three letters from persons of high respectability with the papers, testifying to the reputation of the petitioner for truth, honor, and sobriety, but these do not afford any evidence to the point. It appears, from a letter of the Commissioner of Pensions, dated May 1, 1854, that this case was presented to the bureau, but rejected because of the failure to establish the claim. The general laws relating to revolutionary pensions make ample provisions for the case of Mr. Prior, if he can prove his services as alleged. If he can afford no better evidence than such as has been heretofore, and in this instance, presented in his case, it will be impossible for the committee to recommend special legislation for his relief; for, however much confidence they may, as individuals, place in his statement, it would be without precedent or excuse to allow a pension in a case unsustained by anything in the shape of proof, simply upon the statement of the petitioner himself. They therefore recommend that the prayer of the petitioner be rejected.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 283.

IN THE SENATE OF THE UNITED STATES.

May 23, 1854.—Ordered to be printed.

Mr. Clay made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Adele Lands, widow of Richard M. Lands, of the army; also the petition of Charlotte S. Westcott, widow of Captain George C. Westcott, of the army, each praying a pension, beg leave to report:

That the committee did, in the latter part of the month of April last past, upon the petitions of Ann E. Childs and eight or ten other widows of officers of the army, praying pensions, report a *general bill*, providing five years' half pay to all widows of officers of the regular army who have died, or may hereafter die, in the service, of diseases contracted in the line of duty. The two cases herewith returned are of this character, and, should the bill above referred to become a law, will be provided for under it. Should Congress decide against the policy of that general bill, it must, to be consistent, reject all applications for special relief in cases of a similar character. The committee ask to be discharged from the further consideration of the petitions of Adele Lands and Charlotte S. Westcott.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 284.

IN THE SENATE OF THE UNITED STATES.

May 24, 1854.—Ordered to be printed.

Mr. Sebastian made the following

REPORT.

The Committee on Indian Affairs, to whom was referred the resolution of the Senate of the 6th day of February, instructing them to inquire into the claim of David Carter, report:

That this claim is for the amount of the valuation of his improvements in the Cherokee country, under the treaty of 1828, by which the United States, for the purpose of inducing a voluntary emigration of the Cherokees, especially in the State of Georgia, to the country already settled by a portion of their tribe, west of the Mississippi river, agreed to pay to all such as would emigrate the value of their improvements. Under this treaty David Carter, a Cherokee, owner of several improvements besides his homestead, enrolled his name for emigration on the day of , 1834, and the aggregate value of his improvements, as valued by the commissioners appointed for that purpose, was $4,249 50, which, by the terms of the enrollment, was to be paid to him in the west. By some accident the money was not paid when he emigrated. In the meantime the final treaty of 1835, by which the remaining Cherokees east sold the whole of their country, was made, and in the 15th article of that treaty a clause was inserted, "and such Cherokees as have removed west since June, 1833, who are entitled, by the terms of their enrolment and removal, to all the benefits resulting from the final treaty between the United States and the Cherokees east; they shall also be paid for their improvements, according to their approved value, before their removal, where payment has not already been shown in their valuation."

This claim was an affirmation of the right of David Carter to the value of his improvements under the treaty of 1828, and was intended to provide for a class of emigrants of which he was one.

In the same treaty, by the 9th article, it was also provided that suitable agents should be appointed to value among "such improvements and ferries from which they (the Cherokees) have been dispossessed in a lawless manner, or under any existing laws of the States where they may be situated." Under this stipulation, as well as the 16th article, a species of claim grew up denominated "rents" and spoliations, from the fact that the dispossession of such ferries and improvements were numbered by their usual rent during the period for which the owner was thus deprived of them. In consequence of the failure to receive

the value of his improvements out west, under the treaty of 1828, David Carter returned to the country east to assert his accumulated rights under the last and former treaties, being the value of his "improvements" under the first, and compensation for the use of them under the last, denominated as above, "rents" or "spoliations."

The commissioners appointed under the 17th article of the treaty of 1835 adjudicated his claim for "rents" of mills and farms, and ascertained their value to be $4,542, which was paid in full, although the claim was not embraced in the literal terms of the treaty; yet the commissioners decided that David Carter, by the non-payment of the value of his improvements, after emigration, the United States had violated the treaty, and others remitted him to his original ownership, as though he had never enrolled for emigration; and regarding his dispossession under the circumstances as "lawless," allowed him rent for the period of three years. This decision was, however, final in its character, has never been reversed, and has been fully paid, and should have been ever after unquestioned. A verbal criticism of that decision afterwards raised a doubt whether it did not embrace both the value and rents of the improvements under both treaties, and this, with the delays ensuing from investigation of a charge of fraud and extravagance in the *valuation* of the improvements originally, has suspended the payment. On the 11th June, 1834, R. J. Meigs reported that many impositions had been practised in these valuations under the treaty of 1828. He was accordingly directed to review these proceedings, and made a report, among others, upon the case of David Carter, reducing his valuation to $1,251, "unless," to quote his language, "Carter can show something to the contrary, which I think he ought to have an opportunity to do."

This recommendation was carried out, and Carter, upon a further investigation by special agent B. F. Curry, was acquitted of all charge of fraud; but his valuation, under the circumstances, was reduced to $2,826 50, in order to apportion the gross amount among other conflicting claimants. In a letter from Elbert Herring, Commissioner of Indian Affairs, dated October 15, 1835, addressed to the Secretary of War, it does not appear that any affirmative action was had. This may be taken as the just and fair valuation of the improvements, for which, in the opinion of the committee, provision ought to be made. This whole amount has never been paid; it was suspended again by a doubt, raised in the opinion of 16th August, 1842, in which he suggests that the award of the commissioners embraced both his valuation and rents. In this opinion he misconceives the terms of the decision, and their letter to the department of 11th September, 1837, and overlooks the whole proceedings embracing the re-investigation by Mr. Curry, and the recommendation of his predecessor in office, Mr. Herring, which had virtually disposed of the case. The decision of the commissioners, Lumpkin and Kenedy, entitles the decree thus: "David Carter's claim for spoliation," a term well settled under this treaty as synonymous with "rents." Again they say: "This claim is for the *rent* of lands and mills." And in speaking again of it in the decree they say, that "he has been kept out of his possession for three years, *as before stated*, the rents of which, at fair prices, makes the aggregate sum of $4,542." An inaccurate use of the word "valuation,"

in their said letter of the 11th of September, 1837, is the sole foundation of all the subsequent proceedings—an error upon which was based that opinion of the commissioner, as well as a decree of the commissioners Brewster and Hardin in 1847, which purports to decide a case which was obviously never before them. Recurring again to the letter of the commissioners, they say, "that we have *not* decided the conflicting claims," (which were for the valuation of several improvements under the treaty of 1828, particularly mentioned and explained in Curry's report,) "but have allowed a spoliation claim under the late treaty" (1835.) "This *spoliation* claim," say they, "was in the nature of a claim for rents and mills." Neither in the decree, nor in the letter aforesaid explaining it, does the original valuation possess any importance, except to show a dispossession as the basis for the claim for "spoliation" or "rent." The whole of the proceedings of the Indian office, and the unauthorized decree of Messrs. Brewster and Hardin, were plainly a *mistake*, founded upon a misconception and oversight of the previous disposition of the claims, a complication which, the committee think, should be disregarded. By so doing, the case stands upon a just, fair, and final disposition made in 1835, which the committee is willing to sanction. An appropriation for the amount then ascertained is therefore awarded, as a just fulfilment of the treaty of 1828.

33d Congress, 1st Session. [SENATE.] Rep. Com No. 285.

IN THE SENATE OF THE UNITED STATES.

May 25, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

[To accompany Bill S. 383.]

The Committee on Pensions, to whom was referred the report of the Secretary of the Interior, communicating a list of rejected applications for pensions, and recommending that the act of February 3, 1853, "To continue half-pay to certain widows and orphans," be amended, beg leave to report:

That it appears from the papers referred, that owing to an omission in the act of February 3, 1853, the applications of widows of officers, non-commissioned officers, mariners, and marines, who served in the revolution, for pensions, have been rejected by the bureau. The list accompanying the communication of the Secretary of the Interior embraces twenty cases; and the Secretary says, "there are, probably, a few more of the same class, who have not made application." The act of 1853, referred to, provides for extending five years' half-pay, and granting pensions to *all* widows of officers, non-commissioned officers, musicians and privates, who served in the army of the United States, (including State troops, volunteers, militia, &c.,) in the war of the revolution; but entirely omits to provide for the widows of those who served in the navy. The Secretary states that this omission ought to be supplied, and that this class of persons should be placed on the same footing as widows of those who served with the army. The committee concur fully in that opinion, and conclude that the distinction made in the act against the navy was an inadvertence and not a design on the part of Congress. They, therefore, report a bill in accordance with the recommendation of the department.

The communication of the Secretary of the Interior is hereto appended, as part of this report.

Department of the Interior,
Washington, January 17, 1854.

Sir: In obedience to the requirement of the joint resolution of Congress, approved the 29th of May, 1830, I have the honor to transmit, herewith, a list of such *persons* as have made application for pensions,

and who ought, in the opinion of the department, to be placed on the pension roll; but for doing which there is no sufficient authority of law. The omission in the act of February 3, 1853, to provide for this class of claimants was noticed in my annual report, and, as there are probably a few more whose claims have not yet been presented, I respectfully recommend that the said act of February 3, 1853, entitled "An act to continue half-pay to certain widows and orphans," be so extended as to embrace the widows of the officers, non-commissioned officers, mariners and marines, who served in the navy of the United States during the war of the revolution, in the same manner, and to the same extent, as is provided for the widows of the officers, non-commissioned officers, &c., of the army.

I am, sir, with much respect, your obedient servant,

R. McCLELLAND, *Secretary.*

Hon. D. R. ATCHISON,
President of the Senate.

A statement showing the names and residences of widows whose claims, under the act of February 3, 1853, *have been rejected; the rank of their husbands, on account of whose service the claims were presented; and the reasons for rejecting the same. Prepared in conformity with a resolution of Congress of May* 29, 1830.

Names.	Rank.	Reasons for rejection.
Maine.		
Lydia Ayer, widow of Moses Ayer	Marine	Case not provided for
Lydia Doten, widow of Samuel Doten	Seaman	do. do.
Anne Hilton, widow of William Hilton, 2d	do.	do. do.
Lucy Philbrooks, widow of William Philbrooks	Marine	do. do.
Betsey Ricker, widow of Noah Ricker	do.	do. do.
Massachusetts.		
Sabina Doane, widow of Prince Doane	Seaman	do. do.
Elizabeth Hasley, widow of John Hasley	Marine	do. do.
Lydia Landerkin, widow of Daniel Landerkin	Mariner	do. do.
Sarah Muncriff, widow of Joseph Muncriff	do.	do. do.
Ruth Mugford, widow of William Mugford	Seaman	do. do.
Elizabeth Pearce, widow of Robert Pearce	Sailmaker	do. do.
Lydia Pillsbury, widow of John Pillsbury	Seaman	do. do.
Rhode Island.		
Charlotte Borden, widow of John Borden	do.	do. do.
Abigail Spencer, widow of Lawton Spencer	Mariner	do. do.
Elizabeth Worseley, widow of Joseph Worseley	Seaman	do. do.
New York.		
Charity Anderson, widow of John Anderson	Boatman	do. do.
Susan Belknap, widow of Isaac Belknap	do.	do. do.
Mary Coffin, widow of Alexander Coffin	Midshipman	do. do.
Virginia.		
Nancy Peck, widow of Joseph Peck	Mariner	do. do.
Kentucky.		
Rebecca P. Nourse, widow of William Nourse	Midshipman	do. do.

L. P. WALDO, *Commissioner of Pensions.*

PENSION OFFICE, *January* 10, 1854.

IN THE SENATE OF THE UNITED STATES.

MAY 25, 1854.—Ordered to be printed.

Mr. PETTIT made the following

REPORT.

[To accompany Bill S. 317.]

The Committee on the Judiciary, to whom was referred "An act for the relief of L. E. L. A. Lawson, sole surviving heiress of General Eleazer Ripley, deceased," have had the same under consideration, and report:

The case under consideration has heretofore been acted upon by this committee, and a report thereon submitted by Mr. Butler, in June, 1850, adverse to the claimant. After a full examination of the claim, your committee fully concur in said report, and submit the same as their decision in the case at this time.

IN SENATE OF THE UNITED STATES.—JUNE 18, 1850.

Mr. BUTLER made the following report.

The Committee on the Judiciary, to whom was referred the memorial of Louisiana Elizabeth Lee Alice Ripley, (now Mrs. Lawson,) the only surviving child of the late General Eleazer W. Ripley, have had the same under consideration, and ask leave to submit the following report:

The memorial states, that while General Ripley was employed in the military service of the country, as major general of the south-western division, he had devolved upon him important duties, independent of his proper command; among other functions, he was required to discharge the duties of quartermaster and disbursing officer of his division; that, after his resignation, in 1822, the government instituted suits against him to have his accounts settled. These suits being consolidated, the general pleaded against the government a discount. The items of the set-off thus pleaded consisted of claims against the government for commissions on money disbursed as quartermaster, and for other services not falling within the proper sphere of his command as major general.

The case was submitted to a jury; and, by their verdict, they found that the government was indebted to General Ripley $3,000. A second trial was had, in which General Ripley filed a claim, as part of his discount, of $6,000, alleged to be due him as a pension from the government. On the trial, the jury found a verdict for General Ripley of $20,000. An appeal was taken to the Supreme Court, mainly to decide the question whether the $6,000 allowed as a pension was a proper item of discount. Before the court had decided the question, Congress allowed the pension to General Ripley; and thereupon the accounts of General Ripley were ordered to be balanced and settled at the treasury.

His daughter, the memorialist before us, now comes and says that there are still $14,000 due her father's estate, and coming to her as his only heir.

In no legal point of view can the verdict be regarded as valid against the government, so as to impose upon it an obligation to pay it as authorizing any judgment. This admitted that no judgment can be entered upon it; and then the question occurs, can or ought it be regarded as such evidence of a claim against the government as to call upon it to allow it? Such a verdict is not like the decision of auditors, setting forth the grounds upon which it was founded. If so, the committee would have felt bound to review the grounds of the decision, and, in passing on them, to have allowed or disallowed them. The distinct position is taken, that the verdict *per se* is sufficient evidence to require the government, in the exercise of a fair discretion, to allow the claim to the amount of $14,000. An additional consideration has also been suggested, to wit: that the district attorney had acquiesced in the justice of the claim, inasmuch as he only took an appeal to try the validity of the claim for a pension, amounting to $6,000.

A majority of your committee have come to the conclusion that it would be an unsafe practice for the government to allow claims founded on verdicts setting up discounts beyond the amount claimed by the government. The Judiciary Committee have repeatedly refused to recognize such proceedings as sufficient evidence upon which they would allow such claims. Such verdicts may be necessary in fact, and sometimes may be dictated from considerations which should not bind the government. Such considerations may be honorable to the feelings of the jury, in reference to the merits of parties before them, but may not always be in accordance with the sterner dictates of justice, as to the matter of litigation. At any rate, the government has not delegated to such a tribunal the power of deciding on the appropriations of money when acting beyond the sphere of its legitimate province.

The other consideration referred to ought to have little influence. The district attorney must have known that the verdict for $20,000 was invalid; but he may have been desirous to ascertain whether $6,000 of it (the amount of the pension) could be allowed in the settlement of General Ripley's accounts; for, as soon as that could be ascertained, there could be no further difficulty in ordering a balance to be truck, in settlement of the demands against the defendant.

Your committee have not come to a conclusion that the memorialist is entitled to nothing from the government in right of her father's services; but they have determined that the evidence before them is not sufficient to authorize them to make a favorable report on the claim submitted. Under these views, they report that it is inexpedient to allow the memorialist's claim for $14,000.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 287.

IN THE SENATE OF THE UNITED STATES.

May 25, 1854.—Ordered to be printed.

Mr. Benjamin made the following

REPORT.

[To accompany Bill S. 237.]

The Committee on Private Land Claims, to whom was referred Senate bill No. 237, "A bill for the relief of Pine Grove Academy, in Louisiana," have had the same under consideration and submit the following report:

The committee find that a report was made by Mr. Downs, on the 21st of April, 1852, upon the subject matter of this bill, which is adopted by the committee and made a part of this report.

The bill now referred to this committee is a copy of the bill heretofore reported by Mr. Downs; and feeling fully assured that the policy which the government has long pursued towards seminaries of learning, warrant your committee in reporting favorably to this bill, they report the same back with a recommendation that it pass.

In Senate.—April 21, 1852.

The Committee on Private Land Claims, to whom was referred the resolution of the legislature of Louisiana, requesting a donation of certain lands to the Pine Grove Academy, in that State, make the following report:

In 1839, when the title to the Maison Rouge grant, in Louisiana, was in dispute between the government and claimants, though the general opinion was that their title was good, and it had been so decided by some of the State courts, and the circuit court of the United States, Messrs. Haymes, Chew, and M'Coy, claiming under the grant, made a donation of forty acres of the land in their grant to the trustees of the Pine Grove Academy, in the parish of Caldwell, for a seminary of learning; on this lot of land a large brick house and other buildings were erected, and the academy organized, and has now been in successful operation for several years, and still is so. About the same time, D. W. Coxe, one of the largest claimants of said grant, made a donation of another lot of land near to said academy, containing about four thousand acres, as more fully described in the act of donation annexed to the petition, and in the bill reported. This land is what is called Pine Hills; poor, and so broken by high hills as to be of little value. But

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 289.

IN THE SENATE OF THE UNITED STATES.

May 25, 1854.—Ordered to be printed.

Mr. Benjamin made the following

REPORT.

[To accompany Bill S. 343.]

The Committee on Private Land Claims, to whom was referred Senate bill No. 343, "A bill to confirm the claim of Wm. H. Henderson and the heirs of Robert Henderson, to five hundred acres of land in the Bastrop grant," have had the same under consideration, and report:

That they find a report on the subject matter of this bill, which was submitted by Mr. Downs, then chairman of this committee, on the 8th February, 1853, which they adopt and make a part of this report.

Your committee report back the bill and recommend its passage.

In Senate.—February 8, 1853.

The Committee on Private Land Claims, to whom was referred the petition of W. H. Henderson and the heirs of Robert Henderson, deceased, have had the same under consideration, and report:

The petitioners claimed five hundred acres of land in the Bastrop grant, in Louisiana, under the provisions of the act of the 3d of March, 1851, for the adjustment of land claims in said grants, and presented their claim to the board of commissioners provided for by that act. It was not recommended for confirmation, because it did not come strictly within the provisions of the act from which they derived their powers. It is No. 7 of the first class of claims in their report, and is submitted to the further consideration of Congress in the following words: "But, while under the principles of the law we are forced to report against this case, justice requires that we should recommend it to the indulgence of the government, the present claimants having purchased in good faith, and for a *bona fide* consideration;" and they might have added, what the evidence before the committee now shows, that they, and the persons under whom they claim, had remained in quiet and uninterrupted possession of it for seventeen years—only three years less than the time required by the said act of 1851. The fact that the chain of title to them is not complete, is not material to the government; for the only question is, Ought it to be confirmed to the claimants,

whoever they may be? The petitioners have had possession long enough to hold it by pre-emption against individuals, and the bill is so framed as to amount to a relinquishment of title only on the part of the government; so that, if any other claimants have a better title to it, it will not be prejudiced by this confirmation, but, on the contrary, it would inure to their benefit. The claims reported favorably on by said board have been confirmed by a bill which has passed the Senate; and this claim is one of those cases mentioned in the report of the committee in favor of that bill which were reserved for separate consideration. The committee therefore think the claim ought to be confirmed, and report a bill accordingly, and recommend its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 290.

IN THE SENATE OF THE UNITED STATES.

May 25, 1854.—Ordered to be printed.

Mr. Hamlin made the following

REPORT.

The Committee on Commerce, to whom was referred the resolutions of the legislature of the State of Texas, and also a petition of residents of the valley of the Rio Grande, asking that Brownsville be made a port of entry for the collection district of Brazos de Santiago; and likewise a memorial and proceedings of the citizens of Point Isabel, assembled in public meeting, against making Brownsville a port of entry, report:

That, on a full examination of said case, the committee are of opinion that the port of entry should remain at Point Isabel, where it is now established by law, for the district of Brazos de Santiago. The port of entry is now at the point which is in accordance with the practice of the government, and which is necessary for the safety and protection of the revenue. Your committee concur in the opinions and reasons expressed in the letter of the Secretary of the Treasury, and therefore ask to be discharged from the further consideration of the subject.

Treasury Department, *May* 1, 1854.

Sir: I acknowledge the receipt of your communication under date of the 21st March last, and accompanying paper, in regard to the propriety and expediency of changing the port of entry in the collection district of Brazos de Santiago from Point Isabel to Brownsville.

I have carefully considered the papers submitted, and am of the opinion that it would not be expedient to change the port of entry in that district.

It is desirable, for the due protection of the public revenue, that vessels and their cargoes should be reported and entered at a custom-house, as soon as practicable, after entering the waters of the United States; and ports of entry should, in the opinion of the department, be established at such points as will best accomplish those purposes.

The position of Point Isabel being on the sea coast, and at the head of the best harbor in the district, satisfies these conditions better than that of Brownsville, which is about thirty miles by land from the sea, and about sixty miles by the river route.

If foreign merchandise is obliged, after entering the waters of the United States, to traverse a long interior route before reaching a port

of entry, where it can be properly inspected and the duties secured, it is obvious that facilities will be afforded for the illicit introduction of dutiable goods, against which it will be difficult, if not impossible, to enforce any adequate security, nor would the hazard to the public revenue be less where the route, as in this case, is upon a river constituting the dividing line between the United States and a foreign power.

The paper accompanying your communication is herewith respectfully returned.

I am, sir, very respectfully, your obedient servant,

JAMES GUTHRIE,
Secretary of the Treasury.

Hon. H. HAMLIN,
Chairman of Committee on Commerce U. S. Senate.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 291.

IN THE SENATE OF THE UNITED STATES.

May 29, 1854.—Ordered to be printed.

Mr. Brodhead made the following

REPORT.

The Committee of Claims, to whom was referred the memorial of Messrs. Gibbons & Kelly, have had the same under consideration, and report:

On the 30th of April, 1852, the memorialists entered into a contract with the Secretary of the Treasury to construct the several light-house structures on the Pacific coast, authorized by the acts of September 28, 1850, and March 3, 1851. In the execution of this contract, sundry questions have arisen between the contractors and the Treasury Department, as to the proper construction of the agreement and the rights and obligations of the parties.

The first question is as to the light-house at San Diego. The words of the act, and which are quoted in the contract, are: "For a light-house at San Diego," &c.; and the contractors undertake to erect said structures, "at the several points already indicated, or to be indicated as the sites thereof, by the officers of the coast survey." These officers selected Point Loma, "a long, narrow strip of land, extending in a southerly direction about two miles and three quarters from the port of San Diego, eight miles from the town, and on a point about four hundred feet high," as stated by Mr. Harrison, the officer who selected it.

The Light-house Board consider this point is within the scope of the law and the contract, while the contractors take the ground that the discretion of the officers of the coast survey, in selecting the particular sites, is limited to San Diego, or its immediate harbor. In consequence of this disagreement, the contractors ask to be relieved from that part of the contract, or to be allowed the additional cost involved in the alleged change of site. It is understood that, since the memorial has been pending before the committee, the construction of the light-house at Point Loma has been commenced, and is now in progress. When it shall be completed, and not till then, as it appears to the committee, can the question as to the equity or extent of additional allowance be properly determined.

If the cost of erecting the structure at that point should be found to greatly exceed the amount it would have cost had it been located at San Diego, the committee are of opinion that the contractors would be entitled to a reasonable additional allowance, and it is presumed that the department, under such circumstances, if the means at its disposal were found inadequate, would ask Congress for such appropriations as

would enable it to do justice to the contractors. The late acting Secretary of the Treasury offered to release the contractors from building the light-house at Point Loma without claim for damages on either side, but this was after the contractors had sent out their workmen and materials.

The next point is that of the obligation of the contractors to place the lenses upon the towers.

By the original contract, the secretary reserved the right to introduce the French lens, which he subsequently decided to do, and by a modification of the contract, made on the 21st of May, 1852, the secretary agrees "that the several towers for said lights shall be regarded as finished when the coping shall have been laid, and their summits duly protected from the weather, and all the interior work beneath it finished according to contract."

The contractors claim that this stipulation exonerates them from any obligation to place the lanterns upon the towers. The Light-house Board express a different opinion, but assign no reasons for their conclusion.

The committee think the stipulation in the contract is clear on this point, and that the contractors are not bound to place the French lenses upon the towers.

The next point in question is the claim of the contractors to be allowed compensation, at the rate paid for the other light-houses, for the transportation of materials from San Francisco to Cape Disappointment, six hundred miles, to Alcatras Island, one mile, and to Battery Point, eight miles. The charge for this transportation is $11,080.

The contract stipulates that, in case a revenue cutter, or other public vessel, should be proceeding to the Pacific coast at or about the time the materials for said light-houses were ready for shipment, "the same shall be taken on board and delivered to the collector at San Francisco," free of charge to the contractors; and in the event no such vessel was sent, then the government stipulate to otherwise transport said articles by other vessel or vessels, free of freight to San Francisco; and in case the said articles were transported by the contractors, the government was to pay therefor "the usual and customary freight." And it was further agreed, that the articles so shipped should not be delivered to the contractors at San Francisco, but they were to remain in the possession of the collector until delivered at the several points where the same were to be used, and to which several places they were to be transported under the authority of the collector, when required, in a revenue cutter of the United States, or other vessel. The contractors, however, reserved the right to ship said articles directly to the several points where they were to be used, without going to San Francisco, if they preferred to do so.

It turned out that no government vessel was proceeding to the Pacific at the time required, and the contractors transported the materials in their own vessel, the "Oriole," and delivered them into the possession of the collector at San Francisco. From this point they conveyed, at their own cost, the materials to Alcatras Island, about one mile, and to Battery Point, about eight miles. At this point of the transactions, the collector at San Francisco, who held possession of the "Oriole," and

whose duty it was, according to the contract, to retain possession of the materials, until they were delivered at the places where they were to be used, "looking," as it is said, "to the difficulty of loading and unloading the barque, and to the great cost of storing the goods at San Francisco," chartered the "Oriole," and "converted it into a store-ship, and, when needed, into a transport vessel." Prior to this charter-party, the materials were delivered at Alcatras Island and Battery Point, for which a claim is made; during the existence of the charter-party, the materials were conveyed by the "Oriole" to the Faralones and Monterey, and the vessel being in the pay of the government, no claim is made for that transportation. After the destruction of the "Oriole," the materials were conveyed to Cape Disappointment, Oregon, and for that payment is claimed.

On the arrival of the materials at San Francisco, Mr. Sanders, the collector of that port, believed it to be his duty, under the provisions of the contract, to take charge of them, and to transport them, "when required" by the contractors, to the points where they were to be used. He accordingly chartered the bark "Oriole" for that purpose. In a letter dated February 26, 1853, he reports the facts to the Secretary of the Treasury, and assigns, amongst others, the following reasons: After stating that there was no revenue cutter, or other suitable vessel to be procured for the purpose, he says: "The materials for all the light-houses embraced in the contract were on board of the 'Oriole,' having been brought in her from the Atlantic States. Had there been a spare cutter here, which could have been employed in the service, a very great expense must necessarily have been incurred in landing, storing, and re-shipping the materials, besides the loss by breakage, &c. All this is saved by the arrangement I have made, and the terms of the charter are more economical than, as I found after diligent inquiry, I could have effected elsewhere. It will be seen that I have stipulated that the price of the charter is to cover the cost of landing and delivery," &c.

This charter-party was, however, disapproved by the department, and Mr. Hammond, who had been appointed to succeed Mr. Sanders as collector of San Francisco, was instructed accordingly. After investigating the subject, Mr. Hammond, under date July 28, 1853, thus reports to the department:

[No. 23.] CUSTOM-HOUSE, SAN FRANCISCO,
Collector's Office, July 28, 1853.

SIR: In reply to the communication from the department of April 16, in reference to the charter of the barque "Oriole," I have the honor to forward a copy of a letter addressed by myself to my predecessor on the 1st of June. The actual freight upon the wood-work, (except the joists and rafters,) which is to be transported at the cost of the United States, would not amount to the sum paid for the use of the barque "Oriole;" but if the collector of this port had received the freight of the barque "Oriole," upon her arrival from the United States, and had caused it to be landed, carted, and stored at public expense, as required by the contract, and had made separate agreements for the transportation of *the entire* wood-work of each light-house to

each particular point, as it might be wanted, paying all the expenses for landing and placing the materials in position for use by the contractors, I am very certain that the government would have paid more than under the present arrangement, and much time would have been lost in the completion of the structures.

In view of the fact that the vessel chartered furnishes transportation and storage, and the amount paid for her relieves the government from any expense for labor and cartage, and for the further reason that there is no revenue cutter, or other public vessel, at this port which could by possibility be used to perform any part of this service, I am induced to report, without hesitation, to the department that the arrangement made by my predecessor is, in my judgment, a wise and economical one, and I shall continue it until further instructions from the department.

I have the honor to be, very respectfully, your obedient servant,

RICHARD P. HAMMOND,
Collector.

The Hon. JAMES GUTHRIE,
Secretary of the Treasury, Washington.

In view of all the facts, the committee are of opinion that the contractors were entitled to the transportation of the materials, from San Francisco to the several points where they were to be used, at the cost of the government; and they see no reason to doubt that the arrangements made by Mr. Collector Sanders, and fully approved and sanctioned by Mr. Hammond, his successor in office, to carry out the stipulations of the contract on the part of the department, were the best and most economical it was in their power to make; nor do they see any good reason why a reasonable allowance should not be made for the transportation of the materials from San Francisco to Alcatras Island, Battery Point, and Cape Disappointment.

It appears that while the "Oriole" was in the possession of the agents of the government, under the charter party above alluded to, with a considerable portion of the light-house materials on board, she was wrecked, and with the cargo entirely lost. The amount claimed for the materials lost on board of the Oriole, while, as alleged, in the care and custody of the government, is $10,558.

It appears that these materials, on leaving the Atlantic port, were insured to San Francisco, and the policy of insurance, together with the bills of lading, assigned to the government as security for money advanced, and it was stipulated in the contract that they should be delivered into the possession of the collector at San Francisco, and that they should not be delivered to the contractors at San Francisco, but remain in possession of the collector until delivered at the several points where they were to be used.

The memorialists claim, that as the goods were in the custody of the government as collateral security for money advanced, under a stipulation to deliver them at certain points, the government should be responsible for loss occurring before such delivery.

At the time of the loss, these materials were held by the United States as collateral, with the agreement to keep them until required to be delivered at different points, and then to deliver them at such points.

The Oriole was on her voyage to Cape Disappointment, and had on board, not the materials for that light-house alone, but also those for Humboldt Bay, Point Conception, and San Diego. All these materials, except what were required at Cape Disappointment, were constructively "in possession of the collector at San Francisco," as required by the contract. The question is raised, whether "ordinary prudence" was used in the care of this property; whether a vessel at sea is a proper place for the storage of goods held in trust.

It is further claimed on the part of the contractors, that the government having undertaken the transportation and delivery of these materials, without making any exceptions as to the *dangers of the sea*, are held, as other common carriers would be, in the absence of express limitation, to the full resposiblity of underwriters.

Without assuming to determine how far the technical rules of law would apply to the facts presented in this case, the committee are inclined to the opinion, that under all the circumstances, it would be right for the government to assume the loss.

The next claim is for delay in obtaining possession of the site at the Faralones Islands.

The evidence is, that on proceeding to the Faralones, for the purpose of erecting the light-house at that point, with the hands and materials, they found the island in possession of persons who claimed the right to it, and resisted the erection of the work. They appealed to the collector of San Francisco, and after a delay of fourteen days, obtained possession. The loss is stated at $120 per day—$1,680. The Light-House Board think the delay could not have exceeded nine or ten days. (See affidavit of Hugh Hamilton.)

The committee think that the actual and unavoidable loss sustained by the contractors, if any, in consequence of the failure or delay of the government to place them in possession of the site, should be reimbursed.

The committee have deemed it proper to submit to the Senate this general statement of the facts of the case as presented to them, together with their opinion upon the principal questions involved, although they do not propose to recommend that any action be taken thereon by Congress at the present time. They think the application to Congress was premature, if not unnecessary. All the structures are not yet completed, and many of the questions involved are yet, it is believed, within the control and discretion of the Treasury Department. It is presumed that the Secretary of the Treasury, at the proper time, will make such allowances as under a proper construction of the contract, and within the provisions of the law, may be deemed just and equitable.

Should there be a deficiency of funds at his disposal for this purpose, arising from a misapplication of any portion of the additional appropriation of $120,000 "for the completion of light-houses in California," contained in the act of August 31, 1852, or from any other cause, an additional estimate will doubtless be submitted for the further sum required.

The committee therefore recommend the adoption of the accompanying resolution.

Resolved, That the memorialists, Messrs. Gibbons and Kelly, have leave to withdraw their memorial and papers, with the view of submitting *them to the consideration* of the Treasury Department.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 292.

IN THE SENATE OF THE UNITED STATES.

May 29, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 386.]

The Committee on Foreign Affairs, to whom was referred the memorial of Mr. John Randolph Clay, minister of the United States to Peru, setting forth the expediency of making provision by law for the relief of distressed citizens of the United States, other than seamen, in foreign countries, have had the same under consideration, and submit the following report:

The subject of the memorial is one of daily increasing importance. Since the acquisition of our Territories and States on the Pacific ocean, and the discovery of gold in Australia, the commercial intercourse of the United States with these regions has greatly increased, and the number of citizens who are led by the spirit of lawful adventure to undertake distant voyages has proportionably multiplied. A very large part of the whale fishery is carried on in seas remote from home; the voyages are long, and the risk of shipwreck and other disasters great. These causes have led to a great increase of late years in the number of American citizens who find themselves in a destitute condition on the Pacific coasts of South America. Provision is made by law for the relief of seamen. Our consuls are allowed to provide them, when they are in want, with the necessaries of life, and to send them home in American vessels. But it must often happen that citizens not seamen are in a state of destitution in foreign countries, calling aloud for relief. A large number of emigrants, carrying with them no means of support in case of sickness, or loss of the vessel in which they are embarked, are constantly on their way to the new fields of industry above indicated, and, when cast on shore, have no resource from actual starvation but the private charity of the agents of the government abroad and the compassion of strangers, who, from want of national sympathy, often want of community of language and religion, are neither able nor willing to extend prompt relief.

Although this state of things exists to a greater extent on the Pacific coasts of this continent than elsewhere, it prevails more or less in many other parts of the world; since there is no part of the globe, within reach of commercial intercourse, that is not visited by American vessels.

The Committee on Foreign Relations have now before them an ap-

plication in favor of the commercial agent of the United States for the Mauritius, who felt himself obliged to extend relief to a large number of American citizens not seamen, who were left on shore at Port Louis, in that island, on their way to Australia, in a state of entire destitution.

The memorial of Mr. Clay, our minister to Peru, contains the result of his experience and observation in that quarter, and throws much light on the extent of suffering that often exists from the causes above mentioned, and the necessity of effective measures of relief. The committee have appended his memorial to this report, as presenting a satisfactory discussion of the subject.

Other commercial and maritime States have found the necessity of making provision for the relief of their destitute citizens, other than seamen, abroad; though there is no other country probably which sends forth to foreign parts so large a number of its inhabitants, in proportion to its population, in the pursuit of commercial adventure of all kinds, as the United States.

The committee are sensible there is some danger of abuse in making provision of this kind for the relief of citizens in distress in foreign countries; but the same danger exists in the case of seamen. The agents of the government abroad will, no doubt, in a few cases, be imposed upon; but as the relief afforded can never be large, and as the recipient must, to entitle himself to it, be manifestly in a suffering condition, the committee do not apprehend that frauds of a serious nature can be practiced. The loss of a dollar or two occasionally bestowed upon an undeserving object is not to be weighed against the duty of furnishing food and clothing to a distressed countryman in absolute want of the necessaries of life.

The committee, however, do not recommend at present a system of relief for all destitute citizens of the United States in foreign countries, but to those classes only whose case is peculiar and nearly assimilated to that of seamen, viz: to those who, in any part of the world, are reduced to want by shipwreck or the abandonment of the vessel in which they had embarked, and to those who, being on their way from one part of the United States to another, have become destitute in foreign countries in consequence of shipwreck, disease, or any other casualty. This last class would include our fellow citizens passing from the Atlantic States round Cape Horn, or across the different routes of Central America, toward the States and Territories on the Pacific; and this is supposed by the committee to be the most numerous class, and that whose distresses call loudest for relief.

With these explanations the committee report a bill.

MEMORIAL.

To the Honorable Senate of the United States, the memorial of John Randolph Clay respectfully showeth:

That having had the honor of serving the United States in different diplomatic capacities for many years past, and consequently having been in constant intercourse abroad with citizens of the United States of various conditions and circumstances, he is convinced of the necessity that some provision should be made by law to aid those who may be destitute in foreign countries.

It is doubtless well known to your honorable body that business, the search of occupation, the idea that their condition might be bettered by a change, a desire to see foreign countries, and other causes, induce numbers of our enterprising citizens to go abroad. Many of them succeed in their views, but others are disappointed, their plans are frustrated, and instead of acquiring the means of living, they find themselves far away from their native land, and often in want of even the necessaries of life. Shipwreck, accident, and disease, increase the number of these unfortunates, who thus become objects of public charity.

Were such indigent citizens at home, they could apply for assistance, when every other resource failed them, to the charitable institutions, supported by public or private donations, existing in almost every State of the Union. And though the individual were to find himself in distress in a State of which he were not a native, the fact of his being a citizen of the United States would suffice to excite a certain sympathy and disposition to aid through which his wants would be relieved.

But the case is far different when the scene is changed to a foreign land. *There* little sympathy is felt for the destitute stranger. Unknown and unfriended, he is often looked upon as an impostor from the very fact of asking for assistance. His difficulties are increased in these countries of Spanish origin, where there is generally a lamentable indifference to human suffering, and where a Protestant is considered as without the pale of the church. "Go to your minister or your consul," is the usual answer to the foreigner's application; and neither is authorized by the law of the United States to assist his countrymen unless they be mariners.

It has happened in two or three instances that vessels bound for California with passengers have been wrecked in the Straits of Magellan, and the crew and passengers brought to Callao in another ship. Having lost everything, clothes and money included, the crew and passengers on their arrival look around them for relief. The first person applied to is the consul. He turns to his instructions, and sees that, by the act of February 28, 1803, it is made the duty of consuls, "to provide for the *mariners* of the United States, who may be found

destitute within their districts, sufficient subsistence, and passages to the United States." Consequently he takes the crew of the lost vessel under his protection, and provides for them at the public expense, but as the act does not justify him in relieving destitute *passengers*, he is compelled either to tell them he can do nothing for their relief, or to assist them out of his own purse. Failing the consul, the next person applied to is the diplomatic agent, who is placed in an equal dilemma.

Your memorialist would respectfully represent that this is not as it should be. It is disagreeable to refuse charity under any circumstances to a fellow creature, but it is painful indeed to the feelings to put back the outstretched hand of a fellow countryman that asks for bread in a foreign land! And yet the diplomatic and consular agents of the United States are frequently subjected to this trial; for the salaries of the one, and the fees of the other, are usually insufficient for their own maintenance; besides, being removable at pleasure, there is often little inclination to give relief, as the public agent may look forward to a time when all the means he can command might be required for his own support.

The act of February 28, 1803, is a wise and humane law, justly providing for a class of citizens that every civilized government is careful to protect. But is not the nation bound to *provide for*, as well as protect, under certain circumstances, other classes of citizens when abroad, in return for the allegiance which they owe it?

At present, should a citizen of the United States be injured, in his person or property, by the acts of a foreign power, he can claim the protection of his government, and the appeal will be listened to and justice rendered him, either through peaceable negotiation or compulsion. But should the same citizen—not being a *mariner*—become destitute, from sickness or other cause, in a foreign country, the public agents of the United States are not authorized by law to aid him! The government takes care that his person and property shall be protected from foreign wrong, yet he may starve unless succored by private charity!

This inconsistent state of things might be easily remedied were an act passed by Congress to afford relief to citizens of the United States who are absolutely destitute in foreign countries, and to provide for their return to the United States, at a rate not exceeding —— dollars. Under the act the diplomatic and consular agents of the United States might be authorized to expend a certain sum annually for the relief of such citizens, leaving it to the agents to decide upon the merits of each case. The agents to render an account quarterly of the sums so expended. This is the course sanctioned by Great Britain, and the amount spent for such purposes by the consul-general in Lima is usually five hundred dollars per quarter. The appropriation in aid of citizens of the United States need not exceed that sum per annum for Peru; though in Panama, and a few other places in America and Europe, a larger sum would be required. It is not probable that the number of applications to the diplomatic and consular agents for relief would be increased by the fact of their being authorized to afford pecuniary assistance to their countrymen in distress, for there is a characteristic independence and proper pride in our citizens which revolts at the idea of

seeking even a temporary maintenance which is not earned by their own exertions.

There are unquestionably adventurers little deserving public sympathy, but there are many more meritorious persons willing to exert themselves, who are unable to obtain employment, because they are foreigners, and do not speak the language of the country, or for other reasons. Some of these last, though destitute abroad, possess means in the United States, or have friends to whom they could apply, if at home. In such cases the diplomatic or consular agents might make an arrangement that the person relieved should repay to the government, upon his arrival in the United States, the amount advanced for his support and passage, and report the same to the proper department so that it might be recovered. The meritorious citizen would be thus relieved, and in many instances the government not be a loser.

In conclusion, your memorialist prays that an act may be passed for the temporary relief of citizens of the United States who are destitute in foreign countries, and to provide for their return to the United States.

J. RANDOLPH CLAY.

LIMA, *November* 28, 1853.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 293.

IN THE SENATE OF THE UNITED STATES.

May 29, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 387.]

The Committee of Foreign Relations, to whom was referred the memorial of John S. Tyler, of Boston, have had that subject under consideration, and submit the following report:

The United States barque Peytona, Oliver Nye Jenkins, master, sailed from New York on the 9th of February, 1853, for Melbourne, in Australia, having on board one hundred and thirty-five passengers. After a series of disasters, and having put into Bahia and the Cape of Good Hope for supplies, the Peytona arrived at Port Louis, in the Mauritius, in the months of July and August, in distress. A course of vexatious legal proceedings was here instituted against Captain Nye and his vessel by some of the passengers and the crew, which ended in the abandonment and sale of the Peytona. The crew, and such of the passengers as were destitute of resources, were thus thrown upon the hands of Mr. Farnum, the commercial agent of the United States at Port Louis. The seamen were relieved by him, and sent from the island as opportunities presented themselves; and the destitute passengers, being American citizens, to the number of sixty-four, were placed on board the British bark Harpooner, bound to Port Philip, in Australia.

To defray the expenses thus incurred, Mr. Farnum drew two bills on the Department of State, bearing date December 24, 1853, amounting together to $7,854 50, which were cashed by Messrs. Blyth & Co., English merchants at Port Louis. These bills could not be paid at the department, the expenditure not having been made for destitute seamen, for whom alone the law provides. But, as the case appears to have been one of extreme hardship and undoubted distress, the committee are unanimously of the opinion that Mr. Farnum was justified in assuming the responsibility of relieving them. They accordingly report a bill authorizing the payment of his drafts.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 294.

IN THE SENATE OF THE UNITED STATES.

May 30, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

[To accompany Bill S. 389.]

The Committee on Pensions, to whom was referred the petition of Michael Hanson for a pension, report:

That the case was first presented to Congress in 1846, and the proofs then submitted proving satisfactory to the Committee on Naval Affairs, a favorable report and bill were submitted in that year. The bill passed the Senate, but failed to become a law. In 1848, a similar report was made, accompanied by a bill, which also passed the Senate. In 1850 the Commissioner of Pensions recommended the case to the favorable consideration of Congress as a meritorious one. The committee find the case, as set forth in report of the Committee on Naval Affairs in 1846, fully sustained by the papers then filed. That report is hereto appended, as part of this report. In view of the long delay of this claim, repeatedly acknowledged to be just, your committee deem it proper to report a bill granting a pension as prayed for, to commence on the 1st of January, 1846, the date at which the proofs were satisfactorily completed.

In Senate.—July 18, 1846.

The Committee on Naval Affairs, to whom was referred the petition of Michael Hanson, have considered the same, with the accompanying evidence, and now report:

That it appears by the petition and evidence that Hanson has been in the naval service of the United States twenty-one years; and has, during that period, sustained a good reputation for correct habits and for efficiency and fidelity as a seaman. He is now old and poor, and suffering under injuries received while on board the frigate United States, under the command of Commander Williamson, in 1837. The injury was a rupture of the groin, and is fully established by proof derived from the surgeon and other officers of the ship. The extent of his present disability is shown to be one-half; in accordance with which, the committee report a bill for his relief.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 295.

IN THE SENATE OF THE UNITED STATES.

May 30, 1854.—Ordered to be printed.

Mr. Sebastian made the following

REPORT.

[To accompany Bill S. 390.]

The Committee on Indian Affairs, to whom was referred the claim of Overton Love, a Chickasaw Indian, report:

That sometime in December, 1847, or January, 1848, a band of nine or ten armed men, from the State of Texas, crossed Red river and forcibly took from the premises of Overton Love four of his slaves, named Patrick, Malinda, Lucinda, and Susan, the right to which he acquired from a devise of Nancy Guest to his wife. And at the same time and place they also seized and abducted their slaves named Harriet and her infant, and a boy named Andy, the property, under the same will, of John Guest, a minor and brother of Mrs. Love. The value of the aforesaid slaves, according to the lowest rate established by depositions before Agent A. J. Smith, was for those of Overton Love, $2,400, and for those of John Guest $1,300. These slaves were the property of Chickasaw Indians, and were taken from their possession in the Chickasaw district of the Choctaw nation. The facts were duly communicated to the Commissioner of Indian Affairs, and the case was referred to the Solicitor of the Treasury, who instructed the district attorney of Texas to institute civil proceedings in the district court of the United States for that State, against the offenders. A report from the district attorney, after great delay, disclosed the fact that the defendants were all irresponsible, and either dead or fled to California or Mexico, and beyond the reach of process. The suit was, therefore, abandoned. The slaves were removed to parts unknown, and have never been recovered. The owners have not only not resorted to any violence or retaliation, but have patiently awaited the result of tedious and ineffectual legal proceedings for redress. They now ask that the United States pay the value of said property, as prescribed in the 16th section of the intercourse law of 1834. The section above referred to, is as follows:

"That when, in the commission by a white person of any crime, offence, or misdemeanor, within the Indian country, the property of any friendly Indian is taken, injured, or destroyed, and a conviction is had for such crime, offence, or misdemeanor, the person so convicted, shall be sentenced to pay to such friendly Indians to whom the property may belong, or *whose person may be* injured, a sum equal to twice the just

value of the property so taken, injured, or destroyed; and if such offender shall be unable to pay a sum equal to the just value or amount, whatever such payment shall fall short of the same shall be paid out of the Treasury of the United States: *Provided*, That no such Indian shall be entitled to any payment out of the Treasury of the United States for any such property if he, or any of the nation to which he belongs, shall have sought private revenge, or attempted to obtain satisfaction by any force or violence: *And provided, also, That if such offender cannot be apprehended and brought to trial, the amount of such property shall be paid out of the Treasury as aforesaid.*"

It is said that the property was taken under some pretext of a claim—a pretext which is scarcely plausible even, when the character of the offenders, and their final concealment of the property and of themselves is considered. Such a claim, if honestly entertained, could not otherwise palliate the act, than to reduce the guilt of the parties from a larceny or robbery to a trespass. The property had been in the peaceable possession of the claimants and of the testator who bequeathed it to them; and the seizure of it by strong hand, without legal process, and within the territories of a nation with whom the United States were, and ever have been, at peace, was, to say the least, "an offence or misdemeanor," and, therefore, within a class of cases for which that act provides. The other conditions of the act have been fulfilled, and their right to the payment is now clear and absolute. They have not sought revenge or private satisfaction, and the offenders "cannot be apprehended and brought to trial." The committee, therefore, report a bill for the relief of the claimants.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 296.

IN THE SENATE OF THE UNITED STATES.

May 31, 1854.—Ordered to be printed.

Mr. Clay made the following

REPORT.

[To accompany Bill S. 392.]

The Committee on Pensions, to whom was referred the petition of Mrs. Frances Smith, for an increase of pension, beg leave to report:

That the petitioner is the widow of William Smith, a soldier of the revolution, who, as is proved by the papers, did good and faithful service during said war, and was clearly entitled, under laws of Congress, to a pension; but, owing to his ignorance of the fact, never applied for, or received the same; but did receive a pension of $60 per annum from the State of South Carolina, for a few years previous to his death, which occurred in 1848.

After the death of petitioner's husband as above, she made application to the general government for a pension; but, owing to the great length of time which had elapsed since the war, she was unable to meet the requirements of the bureau respecting proofs of her husband's service, &c. Upon transmitting to the bureau the proceedings of the legislature of South Carolina respecting her deceased husband's case, a certificate of pension for $20 per annum was issued to her, to commence March 4, 1831.

It is further represented that the petitioner is now aged and indigent; and she appeals to Congress for an increase of the pension granted her to the same rate per annum paid to other widows of revolutionary soldiers.

The act of July 29, 1848, grants pensions for life to all widows of revolutionary soldiers, married prior to 1800, at the same rate their husbands would have been entitled to under existing laws. The act of February 3, 1853, extends this provision to all married *since* 1800. From the papers presented to the South Carolina legislature, it appears highly probable that petitioner's husband served from 1779 to the close of the war, and was entitled, under the act of June 7, 1832, to a full pay pension, or $96 per annum; and, therefore, his widow is entitled to that amount, admitting the case to be proved as required by law; and the committee find the papers to afford the strongest probability that the representations of the petition, and the original declaration of the husband, are *true*. *Regarding* her claim, in her right as widow of *William Smith, as a just and* meritorious one, the committee also find

much in the further statements of petitioner to commend her case to the gratitude and liberality of the government. Mrs. Smith herself, inspired by the patriotic enthusiasm which distinguished the women of the revolution, performed services of the most important and hazardous character, entitling her to be ranked among the heroines of that eventful period. In company with Mrs. Butler, (maternal ancestor of the present distinguished senator from South Carolina,) she conveyed information to the American camp of the approach of the tories under Cunningham, encountering the greatest peril to themselves in the act, paddling a canoe for four miles up a dangerous part of the Saluda river, exposed to detection and death at the hands of the partizan enemy. At various times she conveyed information to the American army of the movements of the British and tories; she also protected and nursed wounded and sick soldiers. At one time she was pursued and captured while returning from giving information to the Americans, and only released after being ordered to the British camp.

The committee herewith report a bill granting Mrs. Smith a pension of $96 per annum, from the 1st of January, 1848, the time when her husband, William Smith, deceased.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 297.

IN THE SENATE OF THE UNITED STATES.

June 13, 1854.—Ordered to be printed.

Mr. Williams made the following

REPORT.

[To accompany Bill S. 394.]

The Committee on Pensions to whom was referred the petition of Betsey Whipple for a pension, beg leave to report:

The petitioner is the widow of Stephen Whipple, a soldier of the late war with Great Britain, who was a pensioner of the United States to the date of his death, for the loss of an arm in said war. He died on the 30th day of January, 1825.

Petitioner alleges that her said husband died of diseases contracted in said war, and claims a pension under the act of February 3d, 1853. There accompanies the petition the affidavits in proper form, and properly authenticated, of George Knapp, Clark Knapp, and Elkana Hildreth, who were well acquainted with her said husband, both before his enlistment and after his return from service. These affidavits show that he was a healthy, robust man at the time of his enlistment, and on and after his return was completely broken down in health, continuing feeble and unable to do any business whatever to the day of his death. They concur in the opinion that his death resulted from disease incurred in the line of duty. The marriage and identity of the widow are satisfactorily proved.

The files of the Pension Office prove the service of her husband, the loss of his arm, and the fact that he was during his life a pensioner.

The committee regard this as a meritorious case, and herewith report a bill.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 298.

IN THE SENATE OF THE UNITED STATES.

June 13, 1854.—Ordered to be printed.

Mr. Williams made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Abigail Saunders for bounty land, report:

That the petitioner was the widow of Joseph Davis, a soldier of the late war with Great Britain, who died in 1815. In 1821, she married James Saunders, who died in 1846, leaving her a second time a widow. She now claims bounty land as the widow of Joseph Davis, her first husband, under the act of September 28, 1850. The services of her first husband, proved by the rolls of the department, would clearly entitle her to 160 acres of land, but for her second marriage, which, under the express terms of the law, effectually bars her claim. If this bar to the claim of all who claim as widows, (save those of the revolution,) is to be removed, it should be done by general statute. The committee have heretofore reported a joint resolution to this effect. If it is not the will of Congress to pass that resolution, the committee deem it impolitic to disregard this provision of the general laws in special cases. They ask to be discharged from the further consideration of the petition.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 299.

IN THE SENATE OF THE UNITED STATES.

June 13, 1854.—Ordered to be printed.

Mr. Sumner made the following

REPORT.

[To accompany Bill S. 395.]

The Committee on Pensions, to which was referred the petition of Peter Amey, praying a pension, beg leave to report:

That the petitioner, who is a colored man, and now about seventy years of age, represents that he was a seaman on board the whaleship "Barclay," which said ship was captured in the month of March, 1813, by the Spanish privateer "Catella," off Coquimbo; that he remained on board the Catella about ten days, when she was captured by the United States frigate "Essex," Captain David Porter. He was then, among the other American prisoners recaptured from the "Catella," transferred, by Captain Porter, to the "Essex," and regularly entered as a seaman on board the frigate, and continued to serve as such until she was captured by the British vessels-of-war "Phœbe" and "Cherub," in the harbor of Valparaiso, which occurred in the spring of the year 1814. He states that during the action he was stationed on the larboard deck, at the gun next forward of the mainmast, from which, at three several times, every man but himself was swept away by the enemy's fire. He escaped injury until near the close of the engagement, when he was wounded in the side to the depth of about two inches, by splinters, which were drawn from his side by his messmates. He reported himself to the surgeon, but found that officer and his aids engaged in attending so many, more severely wounded, that he withdrew himself from notice. After the engagement he returned to the United States, together with about two hundred of the crew and several of the officers of the frigate "Essex," in the "Essex, Jun.," Lieutenant Downs (now commodore) commanding. He states that he has, from the date of his wounds to the present time, suffered much pain and inconvenience from them, and has been altogether disabled from hard labor. He has never received anything from the government in the nature of a pension, and though once entitled to a pension by general statute, he is now debarred, through his own neglect, by mere lapse of time. He is now aged and needy, and states that he can ill afford to yield anything to which he is equitably entitled. Wherefore, he prays the passage of a special act decreeing to him the same pension which has been allowed for similar meritorious services.

together with such arrears as his neglect and ignorance of the law have deprived him of.

His petition is supported by numerous respectable citizens of New Bedford, Massachusetts, of which place he has always been a citizen. They ask that, in addition to a pension, he be allowed his proportionate share of the prize money distributed to the crew of the "Essex" for the term of his service on board, during which term she captured twelve vessels, whose aggregate tonnage was 3,369 tons, and with them 302 prisoners of war, and 107 guns, and which said share of prize money he never applied for through neglect and indifference. They (the citizens of New Bedford) also sustain his statement of services, and bear honorable testimony to his credibility, industry, and sobriety, and to the fact that he has been in great degree disabled by his wounds, and stands much in need of the aid which they claim as his just due from his country for gallant services. Accompanying the petition is a certificate of Commodore Downs to the fact that Peter Amey was serving as a seaman on board the frigate "Essex" at the time of her capture by the "Phœbe" and "Cherub," and was wounded in that action by a splinter, though not placed on the list of wounded in consequence of the apparently slight character of his injuries; also, that Amey was a man of good character, and conducted himself well in the battle.

Richard K. Hoffman, M. D., who was surgeon on board the Essex at the time of her capture, certifies that persons were wounded in that action who did not report themselves to him, and thinks it probable that Amey was of the number.

Dr. William C. Whitridge, of New Bedford, certifies that he has examined Amey, and has no doubt that his disability and present suffering arise from the wounds received in his right side in the action of the "Essex" with the "Phœbe" and "Cherub."

The petition is also accompanied by an affidavit of Alfred Bly, (whose respectability and integrity are vouched for by Hon. Joseph Grinnell, of New Bedford,) and who was the shipmate of Peter Amey in the cruise of the "Barclay," and afterwards on board the frigate "Essex." He corroborates all the material points in the statement of Amey, and says: "I recollect hearing that said Amey was wounded in the side, but the engagement was a desperate and bloody one, and so many lay dangerously and mortally wounded that little notice was taken of wounds which, at another time, would have been regarded as serious." The proofs that Alfred Bly was engaged in the action are clear and explicit.

The committee regard this as a case justifying the special action of Congress, and has herewith reported a bill which, in its opinion, affords to the petitioner all the relief due in equity or demanded by his needs.

The petitioner himself makes no claim for a proportion of prize money. This claim is presented in the petition of the citizens of New Bedford in his behalf. The committee do not think it expedient to take any action in reference to this latter claim.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 300.

IN THE SENATE OF THE UNITED STATES.

June 13, 1854.—Ordered to be printed.

Mr. Sumner made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of William B. May, and other citizens of Massachusetts, praying the enactment of a law authorizing certain pensioners of the United States, living in that State, to draw pensions from the date of the injuries received in the public service, report:

That the subject has been under consideration, and the committee are of opinion that it is inexpedient to grant the prayer of the petitioners. The general laws relating to pensions fix the time for the commencement of all pensions of this class at the date of the completion of the evidence—a rule so long established both in the general and special legislation relative to pensions, and in the practice of the pension bureau, and so just in itself, that the committee deem it highly impolitic to disturb it now, and thus re-open the investigation and adjudication of this entire and numerous class of pension cases. They, therefore, offer the following resolution:

Resolved, That the prayer of the petitioners be denied.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 301.

IN THE SENATE OF THE UNITED STATES.

June 13, 1854.—Ordered to be printed.

Mr. Sumner made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of John R. Presher to be allowed back pension, report:

That the petitioner is a pensioner upon the navy roll for an injury received in 1813. He was placed upon the roll in 1850, upon the completion of his testimony, under the rule established by the second section of an act approved February 4, 1822, which provides that "the right any person now has, or may hereafter acquire, to receive a pension in virtue of any law of the United States, shall be construed to commence at the time of completing his testimony."

There is no reason given for the failure of petitioner to apply for so long a time, except his "unwillingness to receive bounty as long as he was able to support himself." The committee do not deem this a sufficient reason to justify their interference with the general rule established by law. They, therefore, recommend that the prayer of the petitioner be rejected.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 302.

IN THE SENATE OF THE UNITED STATES.

June 13, 1854.—Ordered to be printed.

Mr. Sumner made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Jane M. Rudolph for a pension, beg leave to report:

That petitioner is the widow of Thomas C. Rudolph, late a captain in the revenue service of the United States, and who was wrecked and lost in 1853, while in the discharge of his duty as a revenue officer.

No existing law makes any provision for extending the benefits of the pension system of the government to the revenue service, *except* when acting *in co-operation with the navy.* As Captain Rudolph was not so acting at the time of his death, but was engaged in duties peculiar to the revenue police, his widow cannot claim under the spirit or intent of any general law—neither can she plead a single precedent in the private legislation of the country. Deeming it inexpedient now to establish such precedent, and thus open the door to a class of cases never within the design of Congress, the committee recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner be rejected.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 303.

IN THE SENATE OF THE UNITED STATES.

June 14, 1854.—Ordered to be printed.

Mr. Cooper made the following

REPORT.

[To accompany Bill S. 398.]

The Committee on Revolutionary Claims, to whom was referred the memorial of the heirs of Joshua Chamberlain, praying Congress for half-pay and bounty-land, beg leave to report:

That the memorialist, E. B. Chamberlain, one of the heirs of Joshua Chamberlain, late of the county of Ontario, State of New York, deceased, represents that the said Joshua entered the army of the revolution as a private, in 1777, and served as such for about three years in a Massachusetts regiment, commanded by Col. Vose; that, having been discharged as a private, he was shortly afterwards commissioned as captain, in which capacity he re-entered the army and served to the close of the war.

From a certificate of E. M. Wright, esq., secretary of the commonwealth of Massachusetts, it appears that "the name of Joshua Chamberlain is borne on the receipts in Col. Vose's regiment, Capt. Miller's company, for three years, from the first day of April, 1777, to April 1, 1780;" and by another certificate from the same officer it appears that from the last-mentioned date to the close of the war few rolls are to be found in his office.

There being no record evidence of any services having been performed by Captain Chamberlain after the first of April, 1780, the memorialist has resorted to parol proof to establish the fact that he re-entered the service, and continued therein until the close of the war. Pierce Chamberlain, a son of Joshua Chamberlain, fourteen years of age at the close of the war, testifies that his father enlisted as a private soldier in the revolutionary war, and was absent, as he believes, about three years; that he then returned home, where he remained but a short time until he again entered the service, but this time as a captain, in which capacity, as deponent was always informed, he served until the close of the war. He states that he had frequently seen and read his father's commission, but that the commission is now lost, as he presumes. The testimony of Pierce Chamberlain is corroborated by that of Henry Straight and Crispus Lyman, both soldiers of the revolution, who testify that they knew Captain Chamberlain, and have no doubt he continued *in the service* until the end of the war. The witness

Straight testifies distinctly to have seen him in the army about the close of the war, and remembers a personal rencontre between Chamberlain and two of the enemy's soldiers, at a spring, which resulted in the capture of the latter; and that this took place about the close of the war.

Peter Potts, Levi Blackmore, and Amy B. Chamberlain, a daughter-in-law of Captain Chamberlain, testify that they knew Captain Chamberlain well, and have heard him frequently state that he was a captain, and that he had served to the end of the war.

This testimony, of little or no value of itself, is to some extent corroborative of that of Pierce Chamberlain, Henry Straight, and Crispus Lyman, whose testimony, although not as conclusive as it might be, is quite as much so as could reasonably be expected after a lapse of seventy years.

The committee, being satisfied that Captain Chamberlain was in the service, and that he continued therein until the close of the war, report a bill for the relief of the memorialist and other heirs, and recommend its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 304.

IN THE SENATE OF THE UNITED STATES.

June 14, 1854.—Ordered to be printed.

Mr. Cooper made the following

REPORT.

[To accompany Bill S. 399.]

The Committee on Revolutionary Claims, to whom was referred the memorial of the legal representatives of James Bell, late of Chambly, in the province of Lower Canada, deceased, beg leave to report:

That they have examined with great diligence and care the claim presented by the memorialists in their petition and the accompanying documents, and find that it is just and sustained by satisfactory proof. This claim was brought to the attention of the government as early as 1802, when a report in its favor was submitted to Congress by Albert Gallatin, then Secretary of the Treasury. From the last mentioned period until the death of Mr. Bell, in 1814, the claim was constantly prosecuted; but after his death it was neglected by his children, until they learned that the statute of limitation enacted by Congress was no longer rigidly enforced; when they again brought it forward in the shape of a memorial to Congress.

Few cases brought to the attention of the committee have commended themselves to their sense of justice more strongly than this. On the faith of a proclamation issued by Washington himself, and addressed to the people of Canada at the time of its invasion by Gen. Montgomery, Mr. Bell not only furnished the troops with supplies of arms, provisions, clothing, munitions of war, timber and cordage for the construction of a flotilla, but joined the army in person, and led the assault on Fort Chambly at the head of a company of volunteers, raised and equipped at his own expense. The fort was captured and Mr. Bell was wounded; but his enthusiasm in the cause of liberty did not abate. His ample means were all at the disposal of the American army, and were contributed freely to ensure the success of the expedition under the orders of Montgomery.

After the fall of that gallant leader under the walls of Quebec, and the retreat of the army, Mr. Bell was taken prisoner, and would have been executed as a traitor but for the influence of certain powerful friends in Scotland, which was successfully exerted with the British general in his behalf. Through their instrumentality he was released; but his fortune was gone; and the remainder of his life passed in seeking the payment of his claim against the government. In 1814

he died in poverty, leaving his claim as a legacy to his children, who have been pursuing it for the last quarter of a century.

In 1834 an act was passed by Congress for the relief of Mr. Bell's heirs. This act directed the accounting officers of the Treasury to settle the several accounts of James Bell on equitable principles for moneys advanced, services rendered, and for stores, materials and supplies furnished, &c., with a proviso, however, inserted by the Senate, that the sum to be allowed should not exceed $5,727 03. In pursuance of this act the account was settled and found to amount to $27,147 54, which was made up of $6,056 34 principal, and $21,091 20 interest. There was thus left due to the heirs a balance of $329 31 principal, and $21,091 20 interest.

That the claim was one on which interest was legitimately due, a reference to its character very clearly makes manifest. In almost all cases of like character interest has been paid by Congress. But should principal and interest both be paid, the committee doubt very much whether the memorialists will even then receive a sum equal to that which their ancestor expended in the first place.

In the course of his long imprisonment, and the compulsion which he was under to keep his vouchers out of the sight of the enemy, by whom they would have been used as evidence against him, many of them, according to the proof before the committee, were lost or destroyed. It is therefore believed that a large portion of the original claim remains unsubstantiated in consequence of the loss and destruction of the vouchers.

For this reason, amongst others, the committee are of opinion that the $329 31, with interest thereon from the time of the former settlement, together with the balance of interest then remaining unpaid, are justly due to the memorialists. They therefore report a bill in conformity with this view of the case, and annex to their report the reports of several committees, both of the Senate and House.

IN THE HOUSE OF REPRESENTATIVES.—FEBRUARY 8, 1849.

Mr. BUTLER, from the Committee on Revolutionary Claims, made the following report:

The Committee on Revolutionary Claims, to whom was referred the memorial of the legal representatives of James Bell, late of Chambly, deceased, praying the balance due from the United States, have had the same, with the accompanying documents, under consideration, and make the following report:

The original merits of this claim have been heretofore examined by committees in the Senate and House, and reports fully setting forth the particular circumstances under which the claim arose, and scrutinizing its justness, have been made. The committee refer to a report made from the committee of the House by Mr. Young, January 16, 1834, and ıe by Mr. Leigh, in the Senate, February 2, 1835. No one can ex-

amine the documents and read these reports without being satisfied that the original claim was highly meritorious. The committee adopt these reports, and print them herewith.

On the 30th June, 1834, an act of Congress was passed for the relief of the heirs of James Bell, directing the proper accounting officers of the treasury to settle the several accounts of James Bell, late of Chambly, in the British province of Lower Canada, on equitable principles, for moneys advanced, services rendered, and for stores, materials and supplies, &c., &c.; with this proviso, however, that the sum to be allowed said heirs shall not exceed the sum of five thousand seven hundred and twenty-seven dollars and three cents. In pursuance of this act, the account was settled by the accounting officers of the treasury, and a balance stated to be due from the United States of $27,147 54. This sum is made up of a balance of principal, $6,056 34, ascertained on settlement by the officers of the Treasury Department of the accounts of James Bell, under the act of 1834, and interest on the same from the 15th June, 1776, the time of closing the account, to the 30th June, 1834, the time of the settlement and statement of the balance due, by the auditor, as appears from a certified copy of the account submitted to the committee.

By this act of 1834, the "proper accounting officers of the treasury" were made the arbitrators between the claimants and the United States, and their decision is in the nature of a judgment against the party found to be indebted. Of the amount found to be due, the United States have paid a part only of the principal, and none of the interest. A balance of $329 31 of the principal is unquestionably due, but the interest has not been allowed, because, it is said, the act of 1834 does not authorize it. The act of 1834 says nothing about interest, and therefore, in terms, does not exclude it; and the committee think that a settlement of the accounts in pursuance of that act would give the claimants interest. In the first place, the claim is of a highly meritorious character, being "for *moneys advanced*, services rendered, and for stores, materials, and supplies of various kinds, furnished, &c., by him (James Bell) to the troops of the United States, and for the construction of vessels of war, and for wood for the garrison, including timber, taken to Ticonderoga, and excluding the charge for loss on continental money." Over two thousand dollars of the items allowed is for "money advanced," and the residue is for "supplies" principally. In the next place, the act directs that the accounts shall be settled "on equitable principles." This direction surely would not be complied with if interest were disallowed. It would be inequitable and unjust to refuse it. Debts due from individuals bear interest, and why should not the debts of the government? And in this case, in order to do justice, it is particularly necessary to allow interest, for it is the fault of the government, and not of the claimant, that the principal was not paid long since. The claim was presented as early as 1794, and faithfully pursued until at last a settlement was made and the balance ascertained, which balance was as justly due on the 15th June, 1776, as it was on the 30th of June, 1834, when the account was stated.

It is believed, also, that interest is due according to the laws of Congress and the practice of the Treasury Department. It is stated, in a

compilation of the resolves and acts of Congress, called revolutionary claims, made by order of Congress, that, "by the laws or resolutions of the old Congress, *interest* was allowed on all claims, and to all creditors of the United States, from the time payment became due. There are a great number of resolutions of Congress to this effect. Reference is, however, particularly made to that of 3d June, 1784. See journals of old Congress, vol. 4, page 443."

The resolution referred to is in these words, viz: "That an interest of six per cent. per annum shall be allowed to all creditors of the United States for supplies furnished, or services done, from the time the payment became due."

Many cases are enumerated in which interest has been allowed.

Nineteen cases, among which was the one now under consideration, passed the House of Representatives at the first session 24th Congress, with *interest*. These bills passed the Senate during the last two days of the session, but with regard to interest it was agreed, as it is said, that the interest should be stricken out, *without prejudice to the rights of the parties*, each to be adjusted thereafter according to its merits, or by general rule, if any should be adopted. On most of these cases interest appears to have been subsequently allowed; and in the case of James Bell, at the second session 23d Congress, a bill was reported in the Senate for the interest on the claim, but was not acted on. The bill was renewed the second session of the 24th Congress—passed the Senate, but was not finally acted on in the House.

It is stated in the compilation before referred to, which was made in pursuance of a resolution of 11th April, 1836, that seventeen hundred and fifty-four cases had been allowed *with interest*, and fifty-four without interest.

It appears, also, from a report of the Register of the Treasury, made in 1836, that all certificates of public debt issued by the Register of the Treasury, by the commissioner of army accounts, and by the commissioners for settling the accounts of *individuals* in the several States, and in the quartermaster's, commissary's, marine, and clothing departments, for *services rendered* or supplies furnished during the war of the revolution, or in fulfilment of promises contained in any ordinance or resolution of the old Congress, were on interest at six per cent. from the termination of the service, or from the time the supplies were furnished.

The committee being of the opinion that the balance of the principal, viz., $329 31, and the interest as originally stated by the accounting officer, ought to be paid to the legal representatives of James Bell, report a bill accordingly.

IN SENATE OF THE UNITED STATES.—FEBRUARY 2, 1835.

The Committee on Revolutionary Claims, to whom was referred the memorial of Daniel Cameron and Margaret his wife, legal representatives of James Bell, deceased, report:

That William Bell and the memorialist, Margaret Cameron, claiming, as the only children and heirs-at-law of James Bell, late of Cham-

bly, in the province of Lower Canada, deceased, preferred their petition to the House of Representatives at the last session of Congress, praying remuneration and compensation for advances of money, supplies furnished, and services rendered by their father, James Bell, to and for the American army in Canada, from the fall of the year 1775, till June, 1776. The merits of the claim seem to have been examined very carefully by the Committee on Revolutionary Claims of that House, which made a full and detailed report on the subject. Upon the case stated in that report, the committee recommended, and the House passed a bill providing for the adjustment of the claim by the proper officers of the treasury, and for payment of the prineipal sum which should be found due, with interest thereon from the time when the debt accrued. When this bill came to the Senate, it was so amended as to provide that not more than $5,727 03 of the principal should be paid, and to disallow interest altogether; and with these amendments the act passed for the relief of the petitioners. Upon the adjustment of the account at the treasury, it was found that the principal sum justly due to the claimants was $6,056 34, to which was applied the sum of $5,728 03, appropriated by the act; leaving a balance of $329 31 principal still due to the petitioners.

The memorialists now ask that the above balance of the principal, ($329 31,) and the interest on the whole debt originally due them, computed from the time the claim accrued, may be allowed and paid them.

The report made by the Committee on Revolutionary Claims of the House of Representatives at the last session on this claim is hereto appended. By that report it appears that moneys were advanced, and sundry supplies furnished by the said William Bell, deceased, to the American army in Canada, between the fall of the year 1775, and June, 1776; and that he also rendered personal services, exposing himself to great losses, to imprisonment, and jeopardy of life. That he took the earliest opportunity practicable to present his pecuniary claims to Congress. That probably the claim and the proofs of it were in fact lodged in the public offices shortly after the peace. That in 1794 Mr. Bell came from Canada to Philadelphia, to attend to the claim in person, and obtain payment of the debt due to him, and found at the treasury no obstacle to his claim but the then statute of limitations. That he thereupon applied to Congress for relief, and though the committee to which the claim was referred reported that, from the particular situation of the claim, and its high merits, the statute of limitations ought to be waived in regard to it, the session passed off without any provision being made for the satisfaction of it. That Mr. Bell afterwards appointed an agent to prosecute the claim for him, who frequently presented it to Congress. That in 1802 a very favorable report was made on it to the House of Representatives by Mr. Gallatin, then Secretary of the Treasury, to whom it was referred; but that report, after suggesting reasons for believing that Mr. Bell had used, perhaps, all means in his power to obtain an early settlement of his claim, referred the expediency of opening the statute of limitations back again to Congress. That the claim was again presented to Congress in 1810, and repelled only on the ground of the statute of limitations. That Mr. Bell died in 1814, and that his children never pre-

sented the claim until they found that the policy of the statute of limitations was no longer rigidly enforced, but, on the contrary, was entirely disregarded.

Upon this state of facts, approved as just and true by both houses of Congress in the act passed for paying claimants their principal, it seems to your committee that the government ought to have made provision for the satisfaction of the claim, with interest from the time it accrued, as soon as it was presented, which, it is admitted, was probably early after the peace. That provision ought to have been made for the payment of the principal, with like interest, in 1794, in 1802, and in 1810, when the claim was presented to Congress and its justice admitted. And that in rendering justice to the claimants at the late day at which it was at last proposed to be rendered to them, it behooved Congress to render full justice; that is, to pay the claimants the principal due to them, with interest thereon from the time the debt accrued.

Therefore, the committee report a bill, providing for the payment of the balance of the principle due the memorialists, and of the interest stated by the officers of the treasury to be due on the whole amount of the principal debt.

IN THE HOUSE OF REPRESENTATIVES.—JANUARY 16, 1834.

Mr. YOUNG, from the Committee on Revolutionary Claims, made the following report:

The Committee on Revolutionary Claims, to whom was referred the petition of William Bell and Margaret Cameron, (wife of Daniel Cameron,) only children and heirs-at-law of James Bell, late of Chambly, in the province of Lower Canada, report:

This claim having been of long standing, and its merits, as presented, depending, in some measure, on the peculiar circumstances attending its origin, progress, and continuance, the committee deem it their duty to the House to give the facts connected with it somewhat in detail.

The petition states, in substance, that in the fall of the year 1775, when the advance of the army of the United States entered Canada, James Bell, the father of the memorialist, resided at Chamble, or Chambly, in that province, doing business as a merchant; that when the troops entered the province, a proclamation, in the name of General Washington, was distributed amongst the inhabitants, desiring them to remain in quietness at home, or join the army and assist in the cause of liberty. The proclamation also invited the inhabitants to furnish "such supplies as the country afforded," and pledged, not only the government of the United States, but General Washington himself, in express terms, that "ample compensation" should be made.

Relying on the proclamation, and inclined to the spirit of freedom, Mr. Bell immediately attached himself to the cause and fortunes of the United States, and, during the night, assisted in raising those volunteers which it is well known constituted the principal force in the attack on

Fort Chambly, and before daybreak joined the very inadequate force which had arrived there under Major Brown; and, being well acquainted with the fortification, led the way in the assault, which soon terminated in the capture of the fort, and the surrender of the garrison, prisoners of war.

Mr. Bell having now forfeited the favor of the friends of the crown, and staked his all in the issue of the struggle, yielded not only his own personal services, but his whole means and credit, to aid and sustain the invading army.

General Montgomery, arriving there soon after, employed Mr. Bell in transporting his boats from Lake Champlain to the St. Lawrence, at la Prairie, and, before he left that vicinity, from a knowledge of his zeal, activity, and usefulness, constituted him a kind of public agent to superintend the artificers employed in repairing the fortifications there, and to procure the materials, and also to procure materials for building certain gondolas and other boats ordered to be built by a resolution of Congress, in which service he was afterwards continued by regular appointments, from General Wooster and other general officers, till the final departure of the United States troops from that place in June, 1776; during all which time, in addition to his personal services, he furnished supplies to the garrison, of almost every kind, from his own store in the neighborhood, together with many materials for the purposes before mentioned, and for a considerable time paid the workmen, under his superintendence, out of his own funds. And these services, supplies, and advances, together with the expense in the transportation of the boats to the St. Lawrence, as before mentioned, constitute the claim now under consideration. The representation that Mr. Bell assisted in raising the volunteers, and led the army in the assault, is not expressly stated in the testimony; but his zeal, activity, and readiness to *do* and *supply* everything in his power, is very fully and distinctly proved, as well as implied, from the language and nature of the correspondence with him while thus employed.

All the other representations which are in any way material to a general understanding of the claim, and its merits thus far, are confirmed by the history of those times, the proclamation of General Washington, on file with the petition, the correspondence of the officers of the army with Mr. Bell at the time, together with their special certificates to some of the larger items, and their general certificates since, embracing the whole time, and recognising their general correctness.

The petitioners (by way of showing that their claim ought not to be prejudiced because payment has been so long deferred) further state what is a well known fact, that our troops were unexpectedly under the necessity of abandoning and destroying the works at Fort Chambly, and other places, and of retreating with all dispatch out of the province, leaving no time or opportunity for settling accounts. Mr. Bell, however, collected and arranged his papers as well as the circumstances would permit, overtook the retreating army at St. John's, and delivered over his accounts to General Hazen, who engaged to see them speedily adjusted and settled with the United States government, and the avails transmitted. This circumstance is of considerable importance in the further history of this case, and its claim to attention and favor is dis-

tinctly stated by General Hazen, with the particular circumstances of the manner of his adjusting and bestowing them for safekeeping.

A British force now took possession of Fort Chambly, and re-established the authority of the crown in that region, and Mr. Bell, as is alleged, and as might be well expected from his recent conduct, was immediately arrested for high treason, and thrown into prison, and after a long confinement escaped with his life, through the intercession of some Scottish friends, during a temporary relaxation of rigor, while Sir Guy Carlton was absent in England, and that on condition of his keeping himself in obscurity. As soon as peace was established between the two governments, and Mr. Bell was released from these embarrassments, he renewed his exertions to obtain compensation for his claims, and sent a power of attorney to General Hazen, with full powers to represent him, and close his accounts with the United States; but, before anything was effected, General Hazen was seized with the dumb palsy, as is a well known fact, and continued for some years unable to either write or speak. Finding his affairs in this situation, in 1794 Mr. Bell came from Canada to Philadelphia, to attend to his claim in person with the government. But now he found his claim barred by the statute of limitations; and though it seemed to be admitted that his account had been previously presented at the proper office, and during the suspension of the act of limitation, yet it was decided that the suspension could not be applied to him, as he was not an inhabitant of the United States. Mr. Bell then applied to Congress for redress, and though the committee to whom it was referred reported that, from the particular situation of the claim, and its high merits, the statute of limitations ought to be waived with regard to it, the session passed off, and Mr. Bell was obliged to return home disappointed, discouraged, and poor, and unable afterwards to attend on Congress. He, however, appointed one Peter Mills his agent to prosecute his claim, who, it seems by the files, frequently presented it to Congress, and in 1802 a very favorable report was made on it to the House of Representatives, by Mr. Gallatin, then Secretary of the Treasury, to whom it had been referred; but this report, after suggesting the reasons for believing that Mr. Bell had used, perhaps, all the means in his power for an early settlement of his claim, referred the expediency of opening the statute of limitations back on Congress again. In 1810 his claim appears again to be before Congress, and the claim again critically examined, and its merits earnestly urged; but still the statute of limitations resisted every attack and every appeal. In 1814 Mr. Bell died in poverty, broken down with age, disappointment and misfortune. His children, learning that the absolute dominion of the statute of limitations had been shaken, have taken courage, and again presented this claim.

From a careful consideration of these facts, the committee feel warranted in coming, in this stage of the investigation, to these general conclusions. In the first place, that, in the language of Mr. Gallatin, in the report referred to, Mr. Bell "did, in the years 1775 and 1776, render services and furnish supplies to an indefinite extent and amount, to the continental army in Canada, and that it is probable that he has

never received any compensation." And, in the second place, that the claims ought not to be prejudiced by this long lapse of time, "on account of," in the further language of Mr. Gallatin's report, "the precipitate retreat of the American army from Canada; of the petitioner's being a resident in that province; and of his having used, perhaps, the best means in his power, under those circumstances, to have his accounts settled at an early period."

Having come to these general conclusions, the committee will proceed to examine the items of the account and their vouchers more particularly. These several accounts, as before stated, extending during the whole time the American army had possession of Fort Chambly, are in separate bills, made up from one date to another, mostly under separate heads, according to the nature of the accounts, whether materials, advances, or supplies; having also reference to the several officers who successively or occasionally had the command or direction of the plan or subject-matter. They exhibit, also, the several items, with the date of delivery, and generally the person to whom delivered; and in the case of the advances to the artificers, the days of service, the separate prices of each, together with the particular kind and plan of employment in which they were severally engaged; in short, they exhibit every appearance of being from the original entries at the time, and the bills now exhibited appear, from various memorandums on them, and references to them in reports made, to be the claims as originally presented. Some of the more prominent items are certified by officers knowing to their delivery. General Hazen, Major Butterfield, Captain Hamtramck, and others, specify many of the articles Mr. Bell was in the habit of furnishing, and bear testimony to his readiness, at all times, to furnish whatever was in his power; and each account is duly sworn to by Mr. Bell himself. This, it must be presumed, is the amount of testimony his case was susceptible of; for it will be recollected that General Montgomery was slain in a few weeks after he left Fort Chambly; General Thomas died in the spring, not long after he arrived in Canada; General Wooster received his mortal wound early the next spring, and General Arnold was soon in a situation not to be consulted on such subjects; and it might be added, if necessary, that a number of officers, Major Butterfield and others, who had been on duty in that region, were prisoners to the British Colonel McLeon, for some time near the close of the campaign. General Thompson and Colonel Irwin were also made prisoners about the same time. By a resolution of Congress, the revolutionary officers in the southern department, or a portion of them, were permitted to substantiate their claims by their own oaths, from the necessity of the case, it being utterly impossible to procure regular vouchers to all their transactions in such a confused state of warfare as prevailed at many times in many places. Mr. Bell was also an officer in whom the government or its officers had placed special confidence, and was situated amidst similar, and in many respects greater difficulties. There seems to be no reason, therefore, why he should not receive similar privileges. In the case of the heirs of Francis Cazeau, settled as late as 1817, the precedent is much stronger in Mr. Bell's favor, being almost a parallel

case in all parts. Mr. Cazeau was not a known officer, to be sure, but one in whom the government placed special confidence, as the testimony in his case shows; his was then a single case like this. He resided in Canada, and had furnished supplies a part of the same time with Mr. Bell, for a portion of the army further down the St. Lawrence.

In the progress of this claim, the oath of Mr. Cazeau was directed to be received in support of it by a special resolve of Congress.

The committee have taken into consideration some objections that might arise in view of this claim.

It might be inquired, in the first place, why these supplies were so little connected with the proper contracting officers' accounts, and were not furnished through them. It appears, by the correspondence on file, and the style of the accounts seem to imply it, that a particular discretion was allowed to Mr. Bell, and confided to him; and that, for certain reasons, probably on account of the state of things there—for the same appears in Mr. Cazeau's case—he was treated as somewhat independent of ordinary directions, as it appears that orders and directions were often given to him to be communicated, or not, as he might see fit, to the commanding officers at the fort. It may also be noticed here that it appears, incidentally, from papers on file, that he had other transactions with the quartermaster, and that certain articles, which are proved by Mr. Bell's certificates to have been delivered to the garrison, are not charged in his present account, because they were to be accounted for by the quartermasters with whom he had in these cases contracted.

Again, it may be inquired whether it is possible or probable that the charges in question have remained unpaid. The facts just stated relieve the difficulty, in some measure, by showing that not all the supplies which Mr. Bell furnished at the time were charged or claimed in this account. And, as a more general consideration, it may be remembered that the testimony clearly shows that these accounts were delivered to General Hazen, at St. John's, at the time these services and supplies unexpectedly closed—an officer, probably, who knew as much about the account, and the state of things as they existed, as any other; and that they have been claimed and insisted on, at short intervals, ever since; and what is more conclusive, were critically examined, as the papers show, at Philadelphia, in 1794, when the returns of the army, and the accounts of the disbursing officers, were then in existence, and any advances by them to Mr. Bell would have appeared as a part of these claims. Yet no one account, certificate, report, or examination, of which so many have been made in this case, under the scrutinizing feeling of those times, including the scrutinizing eye of office of Mr. Gallatin, has cast the least shade of suspicion or doubt on the genuineness and correctness of these accounts as presented, except in one item, and that the committee are not disposed to allow, not for any doubt of the accuracy of the charge itself, but on account of the settled practice of the government. This charge is for loss sustained on continental money paid him by the officers and others on their private accounts. The committee, therefore, under all the circumstances of this case, conclude that both justice and precedent, the pledge of

General Washington, and the faith of the government, require that this case should now be settled at the proper offices where such claims are usually examined and settled.

The committee therefore report a bill in conformity with the principles expressed in this report.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 305.

IN THE SENATE OF THE UNITED STATES.

June 15, 1854.—Ordered to be printed.

Mr. Sumner made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of citizens of Scituate, Massachusetts, in favor of Josiah Mann, for a pension, beg leave to report:

That the petitioners pray a pension for Josiah Mann, in consideration of his services, rendered in the navy of the United States during the last war with Great Britain. The fact of his service is proved by the files of the Navy Department, as also his honorable discharge; but the rolls afford no evidence of his having become disabled in the service; nor is it claimed in the petition that he was wounded or disabled in any way while in the service of the United States, but by an accident which occurred several years after his discharge. The pension laws provide a pension for the *mere fact of service* during the war of the revolution; but in all subsequent wars, "disability resulting from wounds received or diseases incurred in the line of duty" is made the absolute condition of a pension to the soldier. The case of Mr. Mann is entirely without the intent of the law, and, however meritorious his services may have been, the committee deem it impolitic to establish a precedent which must open the door to thousands of similar cases never intended to be provided for, and unrecognized in the practice of the government, save in reference to those who did service in our revolutionary struggle. A good reason for this exception to the policy of the country respecting pensions is to be found in the extraordinary hardships of that war, its doubtful issue, and the depreciation of the pay received by those engaged in it (being mostly in continental money) to absolute worthlessness. Subsequently the obligations of the government to the soldier have been well defined, perfectly understood at the time of enlistment, and faithfully fulfilled. He cannot, in equity, claim aught beyond the terms of the contract. In the case of Mr. Mann these have been complied with; and his present necessities and disability, resulting in no sense from his connection with the public service, give him no more claim upon the bounty of Congress than every indigent or infirm citizen may prefer. The adoption of the following resolution is recommended:

Resolved, That the prayer of the petitioners be rejected.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 306.

IN THE SENATE OF THE UNITED STATES.

June 15, 1854.—Ordered to be printed.

Mr. Sumner made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Samuel Crapin, for arrears of pension, beg leave to report:

That this petition was before the Committee on Pensions in 1842, and an adverse report was made thereon. It does not appear, although the petition has been recommitted on several occasions since, that any additional papers have been filed in the case.

There is, however, no merit in the claim. The petitioner was pensioned by a special act of Congress in 1838, at $96 per annum, for a disability incurred in the war of 1812–'14. He now prays for back pension from the date of his disability to the date of his pension under the said special act. No reason is stated why the petitioner did not earlier apply, nor is there any circumstance connected with the case, so far as the papers show, that would entitle it to special consideration, or demand a departure from the rule established by the general pension laws and in the practice of the government, of commencing pensions upon the completion of proofs. The committee report the following resolution:

Resolved, That the prayer of the petitioner be rejected.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 307.

IN THE SENATE OF THE UNITED STATES.

June 15, 1854.—Ordered to be printed.

Mr. Slidell made the following

REPORT.

[To accompany Bill S. 401.]

The Committee on Foreign Relations, to whom was referred the "petition of William Duer, praying remuneration for expenses incurred, and services rendered, while consul in Valparaiso, in defending William N. Stuart, an American citizen, against a criminal prosecution by the Chilian authorities," have had the same under consideration, and now respectfully report:

That the petitioner sets forth in his petition that, in or about the month of July, 1852, while United States consul at the port of Valparaiso, in Chili, one William N. Stuart, an American citizen, and a passenger in the American ship Venice, then lying in that port, and bound to San Francisco, was arrested and imprisoned upon a charge of murder; that said Stuart being without money or friends, the petitioner took upon himself the burden of his defence, which was greatly augmented by the conduct of the judge before whom said Stuart was arraigned, in refusing to hear the witnesses of the accused; that in prosecuting said defence he incurred considerable expense in money, besides performing much personal labor; that with the zealous co-operation of the Hon. Balie Peyton, United States minister to the government of Chili, and the prompt action of our own government at home, the said Stuart was ultimately released, and sent to the United States by the petitioner.

The statements of the petitioner are fully sustained by quite a voluminous correspondence between the petitioner and Mr. Peyton, and between the latter and the authorities of Chili, and also with the Department of State at home; from which it appears that the whole conduct of the petitioner, in regard to that transaction, was characterized by persevering diligence, high intelligence, and an uncompromising devotion to the honor and interest of the United States.

It further appears from a letter of the Hon. William L. Marcy, Secretary of State, dated June 9, 1854, addressed to one of the members of your committee, that "while the department cheerfully bears testimony to the diligence and discretion of Mr. Duer's official conduct in the case referred to, it is conceived that in pursuing that course, he was merely discharging his duty under the 44th article of the con-

sular instructions." And further, that "when the compensation of an officer, whether by fees, or by salary, is established by law, it is inexpedient to grant him a gratuity for the faithful performance of his duty in any single case." That "this principle would seem to be particularly applicable to the consulate at Valparaiso, at the period adverted to, when the fees received by the consul afforded him a liberal compensation for his official services generally;" but that "any expenses which Mr. Duer may have incurred in protecting and defending Stuart are a fair charge against the government, if Stuart was unable to defray them himself."

Concurring entirely with the department in these views, and believing that the petitioner should receive a remuneration for the expenses actually incurred by him, together with an equitable advance for the use of the money expended by him in the support, defence, and subsequent transportation to the United States of said William N. Stuart, your committee report a bill accordingly, and recommend its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 308.

IN THE SENATE OF THE UNITED STATES.

June 19, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

A memorial from Townsend Glover and others, praying Congress to purchase Glover's collection of artificial fruits, now on exhibition at the United States Patent Office. Your committee, after an examination of the subject referred, respectfully beg leave to report:

That, in their opinion, the possession and display, by the United States, of this collection of artificial fruits, embodying, as it does, the most interesting and valuable productions of the various sections of our country, would be of peculiar advantage to the agriculturist, and beneficial to all classes of our citizens.

The artist has attained, as near as can be hoped, a perfect imitation of nature in the various fruits contained in his collection, with a description of each, and the climate peculiarly adapted to its successful cultivation. By this aid, the horticnlturist can at once select the fruit most pleasing to the eye, and that best adapted to the soil and climate of the section of country in which he may reside.

This, in the opinion of your committee, would give a new stimulus to the culture of fruits in this country; it would prove a great advantage and source of wealth, not only to the agriculturist, but the community at large.

Some idea of the importance of this matter can be gained from the fact that the orchard produce, in 1850, of the State of New-York alone, amounted to $1,761,950. The possession of this collection of fruits would, at a glance, enable every one desirous of turning their attention to this matter to select the varieties best adapted to his own section of country, thereby greatly increasing the produce of fruit in the U. S.

The art practised by Mr. Glover is applicable not only to the fruit department, bnt to many of the insects most destructive to the products of the soil. By giving a correct representation of these, and diffusing this knowledge throughout the country, very much might be done to impede the fearful destruction which every year appears to be increasing.

In view of the facts stated by the memorialist, and which your committee have given a careful consideration, it is believed that no better disposition could be made than by appropriating such a portion of the public funds as may be necessary, not only for the purchase of the collection exhibited at the Patent Office, but for the completion of the labors of Mr. Glover in his peculiar department.

Your committee would respectfully request to be discharged from a further *consideration of this* memorial.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 309.

IN THE SENATE OF THE UNITED STATES.

June 19, 1854.—Ordered to be printed.

Mr. Sumner made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of John Redding for a pension, report:

That the petitioner enlisted in September, 1850, for five years, in the army of the United States, and was discharged April, 1853, after two years' and eight months' service, on a certificate of ordinary disability, for the following reasons: "Scrofulous habits, worn-out constitution, debility," &c., &c.

The committee are satisfied, from an examination of the documents presented, that the present disability of the petitioner was not "*incurred* in the line of duty in the service of the United States," and has not resulted from any causes even remotely connected with such service. It is not, therefore, such a case as is contemplated by the invalid pension laws, in providing pensions for soldiers disabled "in the line of duty." The adoption of the following resolution is respectfully recommended:

Resolved, That the prayer of the petitioner be rejected.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 310.

IN THE SENATE OF THE UNITED STATES.

June 20, 1854.—Ordered to be printed.

Mr. Williams made the following

REPORT.

The application of the heirs of Stephen Morrell for the amount of money, which they allege was due their father at his decease, from the United States, is based upon the following facts, which are gathered from the original papers now on file in the Pension Department:

Stephen Morrell enlisted for the term of one year into the United States army, in the war of 1812 with Great Britain, and was appointed a sergeant in Captain Chadwell's company, 33d and 34th consolidated regiments, under the provisions of the act of January 29th, 1813. The 10th section of this act provides, "that if any officer, non-commissioned officer, musician, or private, shall be disabled by wounds or otherwise while in the line of his duty in public service, he shall be placed on the list of invalid pensions," &c. It will be borne in mind that this act was passed prior to the time of the ancestor's enlistment, and constitutes the basis of a contract between the soldier and the government.

The soldier served out his period of enlistment, and was honorably discharged by the commanding officer of his regiment at Plattsburgh, on the 26th day of —— 1814, as will appear by his discharge.

It further appears, that the said Morrell was wounded while in the line of his duty at the Lacole Mills, on the 30th day of March, 1814, in the province of Lower Canada, as more particularly specified in the certificate of the surgeon of his regiment. The aforesaid certificate in duplicate, and the discharge, was delivered to the deceased at the time of their date. The said Stephen Morrell, immediately after the war, settled in New Brunswick, and continued to reside there until the year 1846, when he died. It is clearly proved that during his life he sufered severely from the effect of his wound, received in the service of his country, and that it most probably tended to shorten his days.

It is admitted that, at any time during his lifetime, by the exhibition of his papers at the Pension Department, he would have been entitled to half-pay pension, from the time of his wound to the time of such application. But he died without making any such application, leaving six minor children without any property. He was heard to declare repeatedly, in his lifetime, that he considered the sum due from his government as a fund for the benefit of his children. The application by the heirs was made to the Pension Department for the sum due their father; was denied upon the ground that their father did not make the application in his lifetime; that if such application had been made by the father, *even the day prior* to his death, he would have been entitled

to receive his yearly half-pay pension, from the time of his receiving the wound up to the hour of his application.

The committee considering that said Morrell was as much entitled, in equity, to his pension, under the act of his enlistment, as he was to his regular monthly pay while in actual service; that because he did not obtain it in his lifetime, his children are as much entitled to it as they would be to any other assets belonging to their father.

The letter of the Commissioner of Pensions, of the date of March 6, 1854, concer ning this application, is hereunto annexed.

—

PENSION OFFICE, *March* 6, 1854.

SIR: I have personally examined the case of Stephen Morell, deceased, for an invalid pension; and while I am very clear there is no general law that will embrace this case, I would respectfully recommend it to the favorable consideration of Congress.

I remain your obedient servant,

L. P. WALDO,
Commissioner.

Hon. T. J. D. FULLER,
House of Representatives.

The committee therefore report a bill in accordance with the above views.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 311.

IN THE SENATE OF THE UNITED STATES.

June 20, 1854.—Ordered to be printed.

Mr. Sumner made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of James H. Bradford for arrears of pension, beg leave to report:

That the petitioner, who was late an assistant surgeon in the United States army, was placed on the invalid pension roll by a special act passed at the 3d session of the 25th Congress, at the rate of $180 per annum. He now prays to be allowed back pension from 1813, the time when his disability originated, to the date of the special act for his relief. It does not appear that he made any application for pension before 1837, when the merits of the whole case were submitted. The committee find nothing to warrant their reconsidering the judgment of a former Congress in this special case, and in adding to its bounty, especially when such reconsideration may lead to a departure from the general rule established by law, and uniformly practised upon by the Pension Bureau, and recognised by this committee, of commencing pensions at the date of the completion of testimony. They submit the following resolution:

Resolved, That the prayer of the petitioner be rejected.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 312.

IN THE SENATE OF THE UNITED STATES.

June 21, 1854.—Ordered to be printed.

Mr. Fessenden made the following

REPORT.

[To accompany Bill S. 409.]

The Committee on Patents and the Patent Office, to whom was referred the petition of Cyrus H. McCormick, for extension of letters patent granted to him on the 21st June, 1834, for improvements in the machine for reaping all kinds of small grain, report:

That the application thus referred to the committee underwent an examination before the Senate Committee on Patents during the first session of the last Congress, who reported a bill in accordance with the prayer of the petitioner. Said report was numbered 160, and bears date March 30, 1852. The facts stated in that report appear to be correctly set forth.

On a re-examination of the petitioner's application by this committee, they are not satisfied that the hearing of his case before the board of extension, referred to in the former report, was such as, in its results, was calculated to do him justice, inasmuch as the issue tried was a mere question of priority of invention, between McCormick and Hussey, without reference to material points of difference in the two machines. And it is now understood by the committee that the machines of McCormick and Hussey do not necessarily interfere with each other, and that an extension of either patent would nor operate injuriously on the rights pertaining to the other. As the invention of the petitioner has, with his subsequent improvements, proved to be of great importance to the agricultural community, and he has failed to obtain an extension in the mode prescribed by law, under a misapprehension of facts, as the committee are inclined to believe, it would seem no more than just to place him in his original position. Errors and mistakes ought not to exclude him from the benefits to be derived from his own industry and ingenuity.

The committee, therefore, recommend a reference of the question to the Commissioner of Patents, to be by him tried and determined upon its merits, and according to the settled principles of the patent laws; to which end they report the accompanying bill, and recommend its passage.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com No. 313.

IN THE SENATE OF THE UNITED STATES.

June 21, 1854.—Ordered to be printed.

Mr. Toombs made the following

REPORT.

The Committee on Indian Affairs, to whom was referred the "memorial of George Stealy, praying compensation for his services and remuneration for expenses while on a mission to the Indian tribes in the northern portion of the State of California, under the authority of the Indian commissioners," have had the same under consideration, and report:

That it appears from the papers that the appointment of the petitioner was irregular and not warranted by law; that he submits no evidence of the extent of his services or the amounts of his disbursements or expenses, except an account current, sustained only by his own affidavit. Your committee, therefore, report that, in their opinion, no relief ought *now* to be extended to the petitioner.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 314.

IN THE SENATE OF THE UNITED STATES.

June 21, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of P. C. Miles, for an increase of pension, report:

That petitioner was a private soldier, and is now receiving, under the general pension laws, the full pension allowed to such for the highest degree of disability. There is no precedent for increasing pensions under these circumstances by special legislation, and the action of the committee on numerous similar petitions has uniformly been adverse.

They recommend that the prayer of the petitioner be rejected.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 315.

IN THE SENATE OF THE UNITED STATES.

June 21, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Frederick Denio, for back pension, beg leave to report:

That petitioner was pensioned under the general laws; his pension to date "from the completion of proof," as provided therein. This prayer for back pension presents no claim founded in justice or law, and is opposed by the uniform practice of the Pension Office and the action of this committee. It is recommended that his prayer be denied.

STANFORD LIBRARIES

IN THE SENATE OF THE UNITED STATES.

June 21, 1854.—Ordered to be printed.

Mr. Sumner made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Sarah Harmon, formerly widow of Timothy Murray, beg leave to report:

That petitioner, now the widow of one Harmon, was formerly the widow of Timothy Murray, who was killed in the military service of the United States during the late war with Great Britain. She prays to be allowed pension and bounty land, in consideration of the services and death of her first husband. The general statutes relating to pensions, make the marriage of the widow, after the death of the husband for whose services she claims, an absolute bar to any claim she may before have had to half-pay or bounty lands, except the said deceased husband served in the war of the revolution. All pensions to widows, (except in the case mentioned,) and all rights they may have to pensions or bounty lands, are, in case of their intermarriage, transferred to the child or children, under sixteen years of age, of the deceased soldier, as absolutely as if the said widows were dead. Under this rule of law the numerous cases of widows coming before the Commissioner of Pensions have been adjudicated; and that officer expresses his doubts of the propriety of any change in the law in this respect. The committee have had several cases before them at this session, involving the same point, and in order to ascertain the sense of Congress upon the expediency of removing this bar to the claims of widows, have heretofore reported a joint resolution placing all widows upon the same footing in respect to second marriage, as the widows of soldiers of the revolution. If that joint resolution passes, this case is provided for under it. If it should be the sense of Congress that no change in the general law in this respect should be made, the committee must recommend the rejection of individual cases. They ask to be discharged from the consideration of the petition.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 317.

IN THE SENATE OF THE UNITED STATES.

June 21, 1854.—Ordered to be printed.

Mr. Sumner made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of the heirs of Uriah Jones, beg leave to report:

That petitioners are the children of Uriah Jones, deceased, who, it is claimed, was a soldier of the war of the revolution; that the said Jones in his life time, (1833) made application to the Pension bureau for a pension, and his application was rejected on the ground that his name was returned on the rolls as a "deserter." His children now represent that his desertion was not such as in equity to work a forfeiture of his claim to pension, and they pray to be allowed such sum of money as their father would have received had he established his claim under the law of 1832, and that of 1850. The circumstances attending the reported "desertion," are stated as follows, by Jones himself, in a communication to the Pension Office, made pending his application:

"But towards the close of the war, indeed, after all fighting had ceased, and peace had actually been made, one Captain Allen took command of our company. The company did not like him, for we thought he was very arbitrary and unjust; and as many as eight or ten left the company at the same time, all of whom, I think, are dead. When I did this I was ill-advised, perhaps, and did not consider the consequences."

Here the fact of desertion is confessed; but it is stated "that it was after the establishment of peace," which took place 1783, whereas the rolls show his desertion to have taken place 24th September, 1782, some time even before the provisional articles of peace. If the statement of Jones could be regarded as a palliation of his desertion, it, unfortunately, rests for its credibility upon his own unsupported testimony.

In addition to the punishments prescribed by law for the crime of desertion, as involving the total disorganization of the army, it is expressly made to work a forfeiture of pay, bounty, and pension. The provisions of the law in this respect are so obviously expedient and proper, that your committee deem it impolitic, in any case, where the clearest justification is not proved, to set them aside in favor of any claim the person so deserting, or his heirs, may prefer to the bounty of the government.

It is but just, however, to add, that the testimony presented in this case proves that the father of the petitioners served for several years, faithfully and gallantly, in the war of the revolution; and that he was

engaged in several of the more important battles, and bore honorable scars upon his body; and that nothing but the ill-advised, and, perhaps, thoughtless and excusable act of desertion recorded against him stood in the way of himself, or now stands in the way of his children, enjoying the bounty of the government.

The committee submit, for the consideration of the Senate, the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 318.

IN THE SENATE OF THE UNITED STATES.

June 22, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Sarah Morey, report:

Said Sarah was once the wife of James Morey, a soldier of the revolution, but was divorced from him by a decree of the supreme court of the State of Vermont, in 1805. Her claim as his widow has been properly disallowed by the Commissioner of Pensions, on the ground that it is forfeited by the decree of divorce, granted by the said supreme court upon her petition, and never reversed or set aside. She now applies to Congress for a special act granting her the benefits of the pension laws, as if the proceedings of said court, in the matter of her divorce, had never been had, on the ground that the decree of divorce was illegal and void. The committee do not deem it either their right or duty to sit in revision upon the proceedings of the supreme court of Vermont, or any other court; they regard the decree of divorce, in this case, as of full force and effect until reversed by competent judicial authority, and, as such, a complete bar to any claim Mrs. Morey may prefer to a pension as the widow of James Morey, deceased. They recommend the adoption of the following resolution:

Resolved, That the prayer of petitioner be rejected.

IN THE SENATE OF THE UNITED STATES.

June 22, 1854.—Ordered to be printed.

Mr. Clay made the following

REPORT.

The Committee on Pensions, to whom was referred five petitions of widows of officers of the army who have died in the service since the war with Mexico, praying to be allowed half-pay for five years, report:

That, on the 20th of April last, your committee reported a general bill, granting five years' half-pay to the widows of officers who had or might thereafter die in the service of the United States of wounds received, or diseases incurred, in the line of duty. This bill, should it become a law, will afford relief to this class of cases, as far as your committee deem it expedient to provide.

A copy of said bill, and the report accompanying it, is hereto appended.

The committee ask to be discharged from the further consideration of said petitions.

A BILL (S. 347) in addition to an act entitled "An act to continue half-pay to certain widows and orphans."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if any commissioned, non-commissioned officer, musician, or private, in the army of the United States, have died since the war of eighteen hundred and twelve, or hereafter shall die, in the service of the United States, by reason of a wound received, or disease contracted in said service, in the line of duty, and shall have left, or hereafter shall leave, a widow, or, if no widow, a child or children under sixteen years of age, such widow, or, if no widow, such child or children shall be entitled to receive half the monthly pay to which persons of the same grade of said deceased officer or soldier belonging to the infantry of the army are entitled to receive, for the term of five years, to commence, in each case, on the day when the evidence therein is completed.

Sec. 2. *And be it further enacted,* That in case of the death or marriage of such widow, before the expiration of the said term of five years, the half-pay aforesaid, for the remainder of the term, shall be paid to the child or children of said deceased officer or soldier, under the age of sixteen years; but, in all cases, said half-pay shall cease when said child or children shall arrive at the age of sixteen years, or shall become extinct by death.

IN THE SENATE OF THE UNITED STATES.—APRIL 20, 1854.

The Committee on Pensions, to whom was referred the petition of Mrs. Ann Eliza Childs, widow of General Thomas Childs, deceased, late of the United States army, have had the same under consideration, and make the following report:

Brevet Brigadier General Childs died at Fort Brooke, Tampa Bay, Florida, on the 8th of October, 1853, while in the military service of his country, of an acute disease, and not from wounds received in battle, or disease contracted from exposure in the line of duty in time of war; hence, his widow, the petitioner, is not entitled, under any general law, or according to precedents of special cases, to the bounty of the government. She prays that a general law may be passed, making the same provision for the support of the widows of officers of the army, who die in the service of the United States, that is now enjoyed by widows of officers of the navy who die in the service.

By act approved March 3d, 1837, it was provided that if any officer, seaman, or marine, die in the naval service, his widow, or, if no widow, his child or children, shall be entitled to receive half the monthly pay to which the deceased would have been entitled according to law, to commence from the time of the death of such officer, seaman, or marine; but in case of the death or intermarriage of such widow, the half-pay shall go to the child or children of the deceased officer, seaman, or marine; which half-pay shall cease on the death of such child or children, or their attaining the age of twenty-one years.

By act approved 16th August, 1841, pensions under the act of 3d March, 1837, were limited to the close of the next session of Congress thereafter.

By the act of 3d March, 1845, pensions created under the act of 3d March, 1837, were revived to commence on the day from which such pension terminated, and to continue for five years; and this act has been periodically renewed, so as to ensure a permanent support for the widows or minor children of deceased naval officers, seamen, or marines.

By the act of February 3, 1853, provision is made for the widows and minor children of officers, musicians, and privates of the regular army, militia, and volunteers, who died of wounds received or diseases contracted in any of the wars since 1790; but no provision is made in case of death while in the military service of the country, unless from wounds received or diseases contracted in war.

The committee can discover no reason for the distinction now made by law in favor of the navy and against the army, or why the bounty extended to the widows and minor children of naval officers, seamen, and marines, should be denied to the widows and minor children of officers of the army and soldiers, who die in the service of the country, though not of wounds received in battle, or diseases contracted in time of war. The service on land is quite as arduous and perilous as the service at sea, and no less meritorious, and no invidious and unjust preference or partiality should be shown to either.

Neither can the committee perceive why the widow, who loses her

husband in the army in time of peace, should not receive the bounty of the government like her whose husband dies of wounds received, or diseases contracted in time of war. There is no difference between the two cases in point of loss incurred, or of helplessness. The service of the husband is necessary to the government in peace as well as in war.

The committee have concluded, in order to equalize the bounties of the government, and to show the same favor to all preferring like claims to public reward or public gratitude, we should either enact a law of the character suggested by the foregoing views, or should repeal those laws, which have been herein referred to, now existing. The committee have decided to adopt the former course, and report the accompanying bill, and recommend its passage.

The committee have been unable to ascertain from the department, to which application was made for information, what will be the probable annual expenditure incident to the proposed increase of the pension list. They provide, in the accompanying bill, half-pay for five years only, in which time the number of beneficiaries and the annual expense will be known, and the scheme can be suspended, if it work an injury to the public interests.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 321.

IN THE SENATE OF THE UNITED STATES.

June 22, 1854.—Ordered to be printed.

Mr. Williams made the following

REPORT.

[To accompany Bill S. 412.]

The Committee on Pensions, to whom was referred the petition of Mrs. Catherine Dickerson, to be pensioned under the act of July 7, 1838, beg leave to report:

That petitioner, who is now very aged and infirm, is the widow of John Dickerson, deceased. That said John Dickerson was a soldier in the war of the revolution, (having served over four years in said war,) and drew a pension as an "indigent" up to the date of his death, which occurred on the 9th day of July, 1833. That being being ignorant of any provision of the law by which she could draw a pension as the widow of her said husband, she made no application for the same until during the year 1853. That she was, from the date of his death, in needy circumstances; and for eighteen years last past, absolutely dependent upon charity, not only for subsistence and clothing, but for every attention which her age and infirmities made requisite. That in 1853, she, as above stated, applied for pension under the law of 1838, but owing to the want of the requisite proof of her marriage to John Dickerson, prior to 1794, her application under said law was rejected, and she was, by the commissioner, pensioned under the law of 1853, passed February 3d, and after the date of her said application for the benefits of the act of 1838. That believing herself to be justly entitled to the five year's pension, as provided in the act of 1838, to date from 1836, she appeals her case to Congress, and now prays the passage of a special act instructing the Commissioner of Pensions to place her name on the rolls under the provisions of the first section of the act of July 7th, 1838.

This case has been examined with care, and the committee are of opinion that the prayer of the petitioner ought to be granted for the following reasons:

1st. It is proven by the records on file in the department, that her said husband was a soldier in our revolutionary struggle, and was honorably discharged; and further, as appears from his own affidavit and the affidavit of a comrade, that he served four years from 1775, and was engaged in the battles of Brandywine, Germantown, Monmouth, and Stony Point.

2d. It also is of record that he was pensioned in 1829, at $96 per annum, and received said pension to the date of his death, in 1833.

3d. The act of June 7, 1832, provides that each of the surviving soldiers of the war of the revolution, who served a term of two years or more in said war, be authorized to receive the amount of his full pay, in said service, during life. Clearly petitioner's husband was entitled under this act.

4th. The act of July 7th, 1838, provides that "if any person who served in the revolutionary war in the manner specified in the act of June 7th, 1832, (above recited,) have died, leaving a widow whose marriage took place after the expiration of his service, and before 1794, such widow shall be entitled to receive, for the term of five years, the pension to which her husband would have been entitled in virtue of said act," to commence on the 4th March, 1836. There is no limitation of the time allowed for making applications under this law, nor has the law ever been repealed or superseded. And the only question which can arise of the right of Mrs. Dickerson to claim under it is, "was she married to John Dickerson prior to 1794?"

5th. The evidence that Mrs. Dickerson was married prior to 1794, though not of the character required by the courts in civil cases, is, in the opinion of your committee, such as ought to be received and credited in a case like this, when an aged woman, (probably over eighty,) evincing that decay of faculties which age, hardship, and infirmity visit upon all, and removed to a new State, beyond all communication with those who survive of her acquaintances in early life, except by mail, and sixty years after the event, is called on to *prove* the day and date of her marriage. Mrs. D. acknowledges her inability even to *remember* the date of an event so important to herself; but declares, positively, under oath, that it took place *three years before the birth of her eldest child, who was born in* 1796. This statement is borne out by the record of marriages and births in the "old family Bible," a transcript of which accompanies the papers, and of the genuineness of which the Commissioner of Pensions satisfied himself by comparing it with the original in the Bible itself.

It seems to your committee that the case of Mrs. D. is sufficiently made out; and that under all the circumstances it would be a too stringent administration of the letter of the law, intended in its spirit to be an act of bounty, to require more in cases of this class. Mrs. D's character for truth and respectability, as also her age, necessities, and deservings, are certified to by gentlemen of the first reputation and position. Her tenure of life must, in the natural order of things, be almost at an end; and as the claim she now presents seems to be founded in equity, and to be well sustained by the law and the facts, your committee regard it both an act of justice and charity to grant her prayer, and enable her to spend her few remaining days in comfort. They, therefore, herewith report a bill giving her a pension, under the law of 1838, from the 4th of March, 1836, to the date of her pension under the act of 1853, as all the pensions granted under the said act of 1838, for a term of five years, were, by subsequent acts, renewed and continued.

All which is respectfully submitted.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 322.

IN THE SENATE OF THE UNITED STATES.

June 22, 1854.—Ordered to be printed.

Mr. Evans submitted the following

REPORT.

[To accompany bill S. 415.]

The Committee on Revolutionary Claims, to whom was referred the memorial of Phineas M. Nightingale, legal representative of General Nathaniel Greene, praying indemnity for losses sustained by becoming security for an army contractor in the revolution, beg leave to report:

The merits of this claim will be fully understood by the following statement of facts—all of which are fully established by written and documentary evidence, viz: Whilst General Greene was in the command of the southern army, at Charleston, in the year 1783, he entered into a contract (by the authority of Congress) with Banks & Co., as army agents, to supply the army with clothing and subsistence. Banks & Co., on their own credit, were unable to furnish the supplies. Those from whom they purchased required security; and General Greene, in order to procure the supplies for the army, (which was then in great distress for the want of both clothing and subsistence,) joined Banks & Co. in a bond to Newcomen & Collet in the sum of £8,743 15s. 6d. sterling money. To pay for these supplies orders were given on the treasury for the amount. Banks received the money, but did not apply it to the payment of the debt of Newcomen & Collet and afterwards failed, so that General Greene became liable for the debt, and actually paid the balance due, amounting to £8,688 6s., on the 1st of May, 1786. When General Greene came to the knowledge of the misapplication of the funds by Banks, and of his own liability, he secured himself, as far as he could, by taking a mortgage of a plantation called Nelville, on the Savannah river, from John Ferrie, one of the partners of Banks & Co. This land was at the time subject to a prior mortgage to one Charles Murray, for £2,000 sterling, conditioned to pay £1,000. This mortgage was executed by David Murray, who was then *siezed in fee* of the land. In 1787 Penman & Tunno, agents of Charles Murray, by his direction, filed a bill in the court of chancery for Charleston, South Carolina, to foreclose this mortgage against the executors of David Murray, and, about the same time, the executors of General Greene filed a bill against John Ferrie, to subject Nelville to the payment of the debt due to General Greene by Banks & Co. The final decree in these cases directed Nelville to be sold, and from the proceeds the debt due to Charles Murray to be satisfied, and the

balance to be paid to the executors of General Greene. In June, 1789, Mr. Gibbs, the master in chancery, sold the estate at auction to Penman & Tunno, the agents of Charles Murray, who resided in England, for £4,146 15*s.*, being at the rate of £4 15*s.* per acre.

The amount due on the Murray mortgage, at that time, was £2,004 9*s.*, leaving £2,412 6*s.* to be applied to the debt due to General Greene.

On the 4th March, 1790, Mrs. Greene, the executrix of General Greene, applied to Congress to be refunded the amount which he had paid as the security of Banks & Co.

For a full statement of all the circumstances attending these transactions, the committee beg leave to refer to the report of Alexander Hamilton, Secretary of the Treasury, in the "American State Papers," marked "Claims," at pages 33–49, and the report of a committee of the House of Representatives, to be found in the same book, at page 210.

By an act approved the 27th April, 1792, (6 Statutes, 91,) Congress agreed to indemnify General Greene for his said liability, and directed the officers of the Treasury to liquidate and settle the amount, with a proviso "that the said executors shall account for a sum, being about £2,000 sterling, (be the same more or less,) recovered of John Ferrie, one of the partners of the said Banks & Co., by the said executors, to be in part of the indemnification aforesaid." This settlement was afterwards made; General Greene was credited with the whole he had paid, and charged with the sum of £2,412 16*s.*, which was what was applicable to his debt, after paying the prior mortgage.

It appears from the history of this case, as detailed in the opinion of Chancellor Johnston, which forms a part of the evidence, that the purchase money for Nelville was never paid by Penman & Tunno, the agents of Charles Murray, nor was any title ever executed. Tunno paid the direct taxes, caused it to be resurveyed, and offered it for sale as agent of Murray, the mortgagee, but there was no actual possession of the land from 1783 to 1819, when one Louisa Omenes entered, claiming as a descendent of the original mortgagor, and through her a claim was afterwards set up by Dr. Daniels. Tunno, in his correspondence with Murray, assigned as a reason why he could not sell the land, that a title was set up by one Duff. This claim was decided to be worth nothing by Mr. Parker, to whom the agents of the parties agreed to refer it in 1826. In 1830, Lewis Cruger administered on the estate of Charles Murray, and filed his bill against Dr. Daniel, to enjoin certain proceedings at law, and to have the decree of 1790 carried into effect.

This bill was dismissed for want of parties in 1837. In 1838, Cruger, the administrator of Charles Murray, filed another bill with the like prayer, and made the administrator *cum testamento annexo* of General Greene a party, who filed his answer, claiming the benefit of 1790, as still unsatisfied. On the final hearing of this bill, the land was ordered to be resold, which was done on the 12th of January, 1842, for $13,000, less by above $5,000 than the sale in 1790. Of the amount of the resale, after paying the old mortgage, the administrator of General Greene recovered $2,705 $\frac{15}{100}$. These are the facts of the case. The prayer of the petition is, that Congress will pay the balance of that £2,412 6*s.*, after deducting the sum recovered on the resale of Nelville,

which is stated in the papers accompanying the petition, to be $11,-723 $\frac{78}{100}$, and with interest computed up to the 12th January, 1850, amounts to the sum of $58,775.

Under the circumstances of the case, it is presumed that Congress would have indemnified General Greene's family for the full amount of what he had paid, if he had this indemnity in part from the sale of the estate of his debtor. At a subsequent period they were paid in full a larger sum for another liability which General Greene had incurred to another creditor of Banks & Co., who had furnished supplies for the army under like circumstances; and if it had turned out that this indemnity was worth nothing, or had been worth much less than was supposed, the same obligation which required the public to bear the loss of the rest of the debt, would require the payment of this part. At that time the representatives of General Greene had established their claim to have the benefit of the interest which John Ferrie had in the land, which had been ascertained by the sale made by the master in chancery. It was certainly right that that sum should be deducted from the amount which Congress had assumed to relieve General Greene's family. But if they never received it, all the reasons which apply to the original assumption of the debt by Congress are still applicable, unless they have lost the debt by their own laches or negligence. It appears from a statement of the history of the case contained in the decree of the court of chancery, in the case of Cruger, administrator of Murray *vs.* Daniel *et al*, that the cultivation of the Nelville estate had been abandoned before the sale by the master in chancery; that at a very early period after, or perhaps before, the purchase money was due, the claim of Duff was set up, and a suit at law was pending at one time between Duff and Murray's agents, Penman and Tunno. This claim was never finally settled until 1836, when by agreement the titles of the parties were referred to Mr. Parker, an eminent attorney in Charleston, who decided against Duff's title. In the mean time, in 1819, the title of Louisa Omenes, the heir of the former owner and mortgager of the land, had passed into the hands of Dr. Daniel, who had gone into possession and resisted the claim of both Murray and Duff; and this claim was not put out of the way until the final decree of the court in 1841—from which it appears that, from above 1790 up to 1841, a period of fifty-one years, there was a dispute about the title. The land in 1789 was sold on a credit of three years, and was only in part due at the date of the act of 1792. It is said, that Wadsworth and Rutledge, who were with Mrs. Greene, the executors of General Greene, died soon after this transaction. The date of Wadsworth's death is not known. Mr. Edward Rutledge died in 1800. It is not known whether either of them ever qualified. It is probable they did not, as they were residents of other States than Georgia, where General Greene lived, and the application to Congress for the relief of the estate of General Greene, before referred to, was made by Mrs. Greene. Mrs. Greene died about 1812.

Do these facts account satisfactorily for this extraordinary delay in enforcing the payment of what they were entitled to under the decree of chancery in 1788? Had they any remedy whereby they could have compelled the payment? If they had, it was either by compelling

Tunno and Penman, the agents of Murray, to take a title and pay money, or to move the court for a resale. It is not likely the c would have compelled the purchaser to accept of a disputed title; in the decree of the chancellor, in the case of Cruger, administrato Daniels, it is said "that it would be contrary to equity, and injur to the parties interested, that a sale should be made before that cl (Duff's) was quieted."

Under these circumstances your committee are of opinion the pr of the petitioner ought to be granted, and report a bill for that purp

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 323.

IN THE SENATE OF THE UNITED STATES.

June 26, 1854.—Ordered to be printed.

Mr. Clayton made the following

REPORT.

[To accompany Bill S. 417.]

The Committee on Indian Affairs, to whom was referred the memorial of the Muscogee or Creek nation of Indians, have had the same under consideration, and report:

That in consequence of the magnitude of the claim presented by this memorial, and its being one in which, if well founded, the honor, justice, and good faith of the United States are deeply involved, they have given to the facts stated in the memorial the fullest and most attentive consideration and examination, to ascertain, if possible, whether there was anything to militate against them, or weigh against the conclusions to which, if true, they irresistibly lead.

The facts stated in the memorial, and the arguments addressed to the committee, are either historical, or drawn altogether from our own records. The memorialists make no averments, resting on their own testimony. They state the case against us, as it is stated by ourselves. All human experience shows that if, in such a history, injustice is done to any one, it is not to the nation by whose pen it is written.

The case presented by the memorial was thus stated by the Commissioner of Indian Affairs, at the second session of the thirty-second Congress: "That a great government, at the close of a war, waged against her and her allies, who had fought bravely in every battle by the side of her own troops, forces those allies to make a treaty, by which, in order to cut them off from a foreign country, she takes from them nearly nine millions of acres of land, they claiming compensation for it, and signing with protestation against its injustice; and yet, for this land they have never received a dollar."

As the commissioner remarked, it does not appear that any other such case ever occurred in the history of this country; and the committee were slow to believe that such had been the course pursued towards any of our allies, at any time. Reluctant to arrive at such a conclusion, they have carefully verified the authorities referred to, contained, with few exceptions, in the volumes of the American State Papers on Indian affairs; and after the most patient and laborious investigation, they are constrained to admit that every allegation in the memorial and arguments is fully sustained by evidence furnished by our own records.

Upon the breaking out of the second war with Great Britain, that power undertook to enlist against us, under its flag, all the Indian tribes over which it could exercise any influence. To effect this it secured the powerful assistance of the celebrated Tecumseh, its most efficient emissary, who was born in Ohio, though his father and mother, of the Shawnee race, were born and bred at Souranga, on the Tallapoosa river, amongst the upper Creeks. In 1787, he had visited the Cherokees and Creeks, and remained with them two years. In 1793 and 1794, he fought the whites in several battles, and from that time to 1812, he was constantly engaged in British intrigues.

As early as the year 1811, British agents, in Florida and Canada, were busily endeavoring to procure the co-operation of the whole southwestern Indian force. The Creeks, more powerful and numerous than any other nation, were particularly urged to join the British, whose emissaries also operated upon the Spaniards, and made use of them to inflame the Seminoles and Creeks.

The Creek confederation was composed of two parts: the Lower Creeks, who were the original Muscogees, owners of the national lands, inhabiting the country on the Chattahoochie river, and thence eastward to the Ocmulgee; and the Upper Creeks, composed of the Tookabatchees, Alabamas, Natchez, Savannahs, Ozeailles, Tuskeegees, Coosas, and others, who had either been conquered by, or who had taken refuge among, the Muscogees, and had lands assigned them to live on.

The Lower Creeks had ceded to Georgia and the United States the lands from the Savannah to the Ocmulgee; and the Georgians on one side, and the Tombigbee settlers on the other, were pressing upon the Creeks. The Upper Creeks, with the exception of the people of Tookabatchee and a few other towns, were exasperated by the cessions made by the Lower Creeks, and some of their own chiefs had long been under French and Spanish influence, and in constant communication with Pensacola, and so were prepared to lend a ready ear to the persuasions of the British.

In 1812, after conferring with the British at Detroit, Tecumseh went thence with thirty warriors, through the Chickasaw and Choctaw country, and into Florida among the Seminoles, who were originally a band of fugitives from the Creeks. He was unsuccessful with the two former nations, but met with complete success among the Seminoles. In October he entered the Creek country, harangued the Creeks at Autauga, went to Coosawda and the Hickory ground, on the Alabama, where his reputation had preceded him, and visited Tookabatchee, where Col. Hawkins, the agent, was holding his grand council with the Indians. Remaining there until Col. Hawkins had concluded his business, and set out for the agency at Flint river, he made the Creeks a long speech, full of fire and vengeance, urging them to throw aside the plough and loom as unworthy of them, and return to their primitive customs; and announcing that "the British, their former friends, had sent him from the big lakes, to procure their services in expelling the Americans from all Indian soil; and the king of England was ready handsomely to reward all who would fight his cause."

A prophet of his party then urged them to take up arms against the Americans, promising that none of them should be killed in battle, that

the Americans should be swallowed up by quagmires, and that they should drive away every Georgian as far as the Savannah river.

When the council adjourned, half the audience had resolved to go to war with the Americans. Tecumseh then visited all the important Creek towns, enlisting all he could on the side of England; but he could not overcome the reluctance of many of the prominent chiefs, even among the Upper Creeks, to go to war with the United States. He wrought upon their superstition by predicting an earthquake and the appearance of a comet, and commissioned as prophets many shrewd and cunning Indians to carry out his plans. He then returned to Detroit, carrying with him Little Warrior, a Creek chief, and thirty of his braves.

By Little Warrior and his party the British sent back letters to their agents in Florida, with orders to furnish the Creeks extensive supplies of arms and ammunition. On their way home they murdered seven white families near the mouth of the Ohio. Colonel Hawkins demanded of the friendly upper chiefs that they should punish these murderers, and they sent out parties of warriors who killed Little Warrior and ten of his men. Two others were executed for another murder, their *uncles* going with the chief's party and pointing them out.

The adherents of Tecumseh then determined to kill all who had assisted in executing these murderers. Several of them were accordingly killed, and hostilities thus commenced prematurely, it not having been intended that they should break out until the British were ready to give assistance.

The hostiles were resolved to force the whole nation to join them, and announced that they were determined to put to death every one who refused to do so; that their intention was to unite the whole nation in aid of the British and the Indians of the lakes against the Americans, to kill the friendly chiefs, Colonel Hawkins and others, attack the settlements on Tensaw and Tombigbee, destroy Tookabatchee, Coweta, and Cussetah, and then invade Georgia and wage a war of extermination. They hoped that the Cherokees would fall on the Tennesseeans, and the Choctaws on the people of Mississippi.

In prosecution of these schemes they burned and destroyed Kialigee, Hatche Chubbee, and other friendly towns among the Upper Creeks; killed the stock and carried off negroes at the Hillober towns, and murdered many Indians who refused to join them. The friendly Indians, much alarmed at these demonstrations, collected at Coweta, on the Chattahoochie, that town and Cussetah, on the same river, being the principal towns of the Lower Creeks, and called on Georgia and the United States for assistance, arms, and ammunition, offering to join the white troops and march against the hostiles.

Tookabatchee, a friendly town among the Upper Creeks, being threatened by the hostiles, two hundred friendly warriors marched thither from Coweta and brought the people to the latter town, where they remained during the war, their own town and their property being immediately destroyed.

In the meantime McQueen, a hostile chief, with 350 warriors, went to Pensacola, obtained munitions of war, was attacked on his return by Colonel Coller, with 180 men, at Burnt Corn creek, defeated him, re-

turned to Pensacola for more supplies, and returned to the upper towns with a liberal quantity of arms and ammunition, furnished from British vessels at Pensacola.

The Lower Creeks were all friendly, with the exception of some of the Uchees, although their annuities for 1812 and 1813 were unpaid. They were a settled people, desirous of living peaceably with the whites, and wholly opposed to the war. In October, 1813, they were 1,000 strong at Coweta. They extended strong patrols up the Chattahoochie, foraged as far as the Tallapoosa, and sent out war parties, thus preventing the hostiles from invading Georgia, as they desired to do. They were attacked because of their fidelity to us, and because they would not join Tecumseh and become the allies of the British. The war against them was a branch of the war of Great Britain against us. The hostile Creeks fought against them and ourselves, as the northern Indians fought at the river Raisin and the Thames, as allies of England. The friendly Creeks were between these allies of Great Britain and the trembling people on the frontiers of Georgia, and, therefore, it was necessary that they should first be conquered.

When McQueen returned expeditions were organized against the white settlements. One thousand warriors, from thirteen of the upper towns, marched against Fort Mims. A strong force from three other towns was thrown out toward Coweta, as a front of observation, to conceal from the friendly forces the main movement, and a hundred warriors, under Francis the Prophet, were dispatched into the fork of the Alabama and the Tombigbee.

Fort Mims was destroyed on the 30th of August, 1813, and five hundred of its inmates slaughtered. Francis destroyed and murdered everything in the country which he had invaded. The whole population of eastern Mississippi was panic-struck, and every person went into some kind of defensive work. The Spaniards urged all the Creeks to unite against the Americans; and the governor of Pensacola wrote to Weatherford, and the other hostile chiefs, congratulating them on the victory of Fort Mims, and promising them aid. A British schooner anchored at Pensacola with a large supply of munitions of war. The hostile troops now threatened to attack Coweta and ravage Georgia. The Georgia troops, a fine and powerful army, delayed entering the Creek country, and, Colonel Hawkins said, "were kept inactive until their usefulness was destroyed by inaction, discontent, the camp-rot, and home-sickness."

The friendly Indians attacked a force of Uchees and Seminoles marching into their country, and drove them back into Florida. Notwithstanding the dilatory movements of the Georgia troops, they still protected our frontier, refused to make peace or come to terms with the hostiles, and offered that the lands on the Alabama might go to pay the expenses of the war. The Choctaws and Chickasaws also declared for the United States, and their warriors took the field for us. Had it not been for them and the friendly Creeks and Cherokees the whole of that portion of the Union would have been overrun, and two thousand five hundred hostile warriors would have invaded Georgia.

Such was the state of things when in October, 1813, General Jackson, with a large force, entered the Creek country. On the 3d of No-

vember General Coffee fought the battle of Tallassehatchie, in which he was assisted by a company of friendly Creeks and Cherokees. On the 9th of November General Jackson fought the battle of Talladega, and relieved one hundred and sixty friendly warriors, with their wives and children, there besieged.

On the 29th of November General Floyd, with nine hundred and fifty militia and four hundred friendly Creeks, fought the battle of Autlose, where the Cowetas, under McIntosh, and the Tookabatchies, under Mad Dragon's son, fought with great bravery, and two hundred hostiles perished.

In December, 1813, more English vessels with Indian supplies arrived at Pensacola. On the 23d of December General Claiborne fought the battle of Econchaca, or the Holy Ground, on the Alabama, and then fell back to Fort Claiborne, where the Mississippi volunteers and cavalry were mustered out of service. In January, 1814, General Jackson's forces were reduced to one hundred men. But on the 14th of January he was reinforced by eight hundred and fifty men, enlisted for sixty days only. With them he marched to Talladega, where he was joined by two hundred friendly Creeks and Cherokees. On the 22d of January he fought the battle of Emuckfau, where he was compelled to retreat, and where the friendly Indians twice saved General Coffee from defeat. On the 24th, upon the retreat, the battle of Enitachopco was fought, in which the friendly Indians again took a part.

On the 27th of January, General Floyd, having again advanced into the Creek country with one thousand two hundred and twenty-seven men, rank and file, a company of cavalry, and four hundred friendly Creeks, was attacked at Calebee; and although the hostiles were repulsed, was compelled to abandon the expedition.

On the 27th of March, General Jackson, with two thousand men, fought the decisive battle of the Horse Shoe against about one thousand hostiles. A large body of friendly Creeks and Cherokees took part in the action, forded the river with Coffee, and took and burned the town, while General Jackson stormed the breast-work in front. This bloody battle, after which five hundred and fifty-seven dead bodies of the hostiles were found, virtually concluded the war. The hostiles fled in the direction of Florida, where some two thousand were received by, and afterwards incorporated with, the Seminoles.

In April General Pinckney took command at Fort Jackson. The country was scoured in every direction for the wretched hostiles, who were unable to rally, though the British vessels anchored at the mouth of the Appalachicola, landed five thousand stand of arms and abundant ammunition, and three hundred British troops, under a colonel, and commenced a fortification, to which many of the Red Sticks repaired for food and military supplies. In the subsequent operations against the British, Spaniards, and Indians, a large force of friendly Creeks was engaged under General Jackson and Major Blue, participated in the capture of Pensacola, and aided in bringing the war to a close. To the very last the hostile Creeks were aided by the British, and led by them against the Americans; having been clothed in British uniform in August, 1814, drilled by British officers in the streets of Pensacola, and offered a bounty of ten dollars for every scalp of man, woman, or child.

On taking command, General Pinckney received instructions from the Secretary of War, to make a treaty, or as was afterwards suggested, to effect a capitulation with the *hostile* Indians—one of the terms of which should be an indemnification for the expenses of the war, by a cession of so much land as might be deemed an equivalent for such expenses. When General Jackson succeeded him, he received the same instructions, and was ordered to carry them out.

On the 23d of April, 1814, General Pinckney directed Col. Hawkins to communicate to the hostile Creeks the terms on which peace would be granted to them. He said, as one of these terms: "The United States will *retain* so much of the *conquered* territory as may appear to the government thereof to be a just indemnity for the expenses of the war, and as a restitution for the injuries sustained by its citizens and the *friendly Creek Indians.*" And he directed these terms to be communicated to the friendly Indians, and said: "You may likewise inform *them* that the United States will not forget their fidelity; but in the arrangements which may be made of the lands to be *retained* as indemnity, *their claims will be respected;* and such of their chiefs as have distinguished themselves by their exertions and valor in the *common cause*, will also receive a remuneration in the ceded lands, and in such manner as the government may direct."

On communicating these terms to the friendly Indians, Col. Hawkins informed them that they received them only by way of information, that no action on their part was expected, and they were merely expected to communicate them to the hostiles.

It is too clear to admit of dispute, that General Pinckney, and after him General Jackson, were authorized only to receive a *capitulation* from the hostile Creeks; and that neither had the slightest authority to make any *treaty* with the friendly Creeks; that the lands obtained by the United States were to be *retained* out of those *conquered* from the hostiles, and not to be taken from our allies; that such was the promise and pledge of the United States, solemnly given through the commanding general; that out of these *conquered* lands, so *retained*, the friendly Indians were to be paid for the losses of property sustained by them; and that lands were to be taken to such extent *only*, as would cover the expenses of the war and the losses sustained by the whites and the friendly Creeks, and not for any other object and purpose.

It is equally clear, that the war was waged against the friendly Creeks, as faithful allies of the United States, by the hostiles as allies of Great Britain. So far as it was a *civil* war, it was waged against them because they continued faithful to the United States; and it was through us that they were involved in it. There is no evidence of any intestine discord among them, produced by any other cause, except the ill feeling generated by their cessions of land to us. The United States were, therefore, bound by every consideration of justice and honor, as well as of self-interest, to aid them in this struggle; and could not decently, or with any pretence of propriety, call on them to pay the expenses of *such* a war, to which they were parties as our allies only.

On the 10th of July, 1814, General Jackson, appointed a major general, superseded General Pinckney. He appointed the 1st day of August for a general meeting of the submitting hostiles at Fort Jack-

son. But when the time arrived, only *one* hostile chief was present. Nevertheless he drew up articles of a treaty or capitulation, reciting that an unprovoked, inhuman, and sanguinary war had been waged *by the hostile Creeks against the United States;* that numberless aggressions had been committed by them against the whites and friendly Creeks; that the hostiles had violated their national honor, and the respect due that part of their nation which was faithful to the United States and to the principles of humanity; and then saying that the United States "demand an equivalent for all expenses incurred in prosecuting the war to its termination, by a cession of all the territory belonging to the Creek nation," lying west, &c., of a line therein defined; including, as ascertained by the Indian office, 8,849,940 acres of land, belonging exclusively to the friendly Creeks, of which 7,084,800 acres lay in the southern part of Georgia, and inured to that State under the treaty by the compact of 1802, and the residue lay in the southeastern part of Alabama, east of a line drawn south from the head of Ockfuskee creek. In addition to this, the treaty gave to the United States 12,434,860 acres of land in Alabama, including all the hunting grounds of the friendly upper Creeks, and 393,520 acres in Mississippi, besides a claim to about a million and a half of acres, loaned by the Creeks to the Cherokees, south of the Tennessee river.

It is unquestionably true that the land so taken from the friendly Creeks, was, in no sense of the word, *conquered* country. General Jackson's forces never entered it, nor did General Claiborne. The lines of march of General Floyd were wholly north of it. The friendly Indians had held and defended it themselves, and protected our own frontier in addition. It was undoubtedly a friendly, and not a conquered, territory.

The friendly Indians were exceedingly unwilling to part with these lands. They could not understand upon what grounds General Jackson took them. He told them that it was for political reasons, to separate his enemies from his friends, to have a border between them and the Floridas. As he wrote to the Secretary of War, "considerations interesting to the United States, relative to the Spanish dominions immediately south of us," had induced him to *procure* the cession of "all the Creek lands of consequence, bounding on foreign claims of territory, in order to prevent future connexions injurious to the tranquillity of the United States."

He marked the line, and demanded their acquiescence. The thirty-five friendly chiefs who signed the treaty, and the single hostile one, were in no manner consulted in regard to it. General Jackson fixed the line, and said he would not alter it. The chiefs could only submit. He told them, it is true, that he gave them an equivalent for the lands taken from them, by leaving to the *hostiles* the lands in the fork of the Coosa and Tallapoosa, but this, they told him, they looked upon as no equivalent. Acting under duress, they required that an instrument should be drawn up stating upon what consideration they agreed to sign the articles of capitulation; who were really the owners of the national lands; that they had been uniformly friendly to the United States, and faithful to their engagements, in peace and war; that they considered the extending of the line through their lands in the Lower Creek coun-

try, as taking from them more than the equivalent offered, and that they had claims which ought to be attended to.

Such an instrument was drawn up and signed as their part of the treaty. Such, Colonel Hawkins says, they regarded it. And it is very clear that, in equity, the treaty and this paper must be taken together as one instrument. By it they declared that Cussetah and Coweta were the head towns of the Creeks, and with Tookabatchee and Ooseeoochee, owners of the land; that the line from the Ockfuskee to the Georgia boundary ran through lands actually their property, for which the lands left to the conquered Indians, between the Coosa and the Tallapoosa, were no equivalent; but that this should not interfere with the running the line, *as they relied on the justice of the United States to cause justice to be done them*; on which conditions, and General Pinckney's letter, and Colonel Hawkins' answer to it, being sent up as part of the treaty, they would sign it.

That the lands so taken in the southern part of Georgia, and the southeastern part of Alabama, belonged exclusively to the friendly Creeks, there is no manner of doubt. The evidence referred to in the memorial, simply shows, indeed, that the Lower Creeks were the owners of all the national lands. All the treaties with Georgia were made with *them;* and even at the important treaty of 1821, only one Upper chief was present. Colonel Hawkins stated that General Jackson took nearly eight millions of acres belonging, obviously, to the friendly Indians. General Jackson, when appealed to, at the time, to say why, when he was authorized solely to *retain* lands *conquered* from the hostiles, he took this land from the friendly Indians, did not pretend that he took it as hostile country; but said that he took it for political reasons, and endeavored to convice the friendly Indians that he gave them an equivalent for it. There could be no more distinct, or stronger, recognition and admission of the complete validity of their title.

It is certainly not necessary to argue that this spoliation of our faithful allies, can only be justified on the ground that it was a measure of political necessity, and because it was to be expected that Congress would make them a reasonable compensation. It is not creditable to the country that this has been neglected for forty years.

It is equally true that no remuneration was ever made the friendly Creeks for these lands. That they could not justly be required, with their own lands, to pay the expenses of the war, we have already shown. It has been imagined that the sum of $85,000, paid the Creeks in 1817, and $110,417 90, paid them in 1852, were in consideration of these lands, or, at least, that they would not have been paid, but for the cession made by the friendly Creeks. But this idea, in any shape, is totally untenable and unwarranted by the facts. Such a condition would have been a violation of every principle of justice, and of the positive promises of our commanding general. These promises were, as we have seen, that the United States would *retain conquered* lands, out of which to pay the friendly Creeks their losses of personal property. If the United States had insisted that, as a condition precedent to the performance of this promise, based as it was, on a good consideration, and made in good faith, our allies should submit to be despoiled of nine millions of acres of their own lands, the act would have been

dishonest, and disgraceful to the country. *Tides observanda est*, is a maxim among all civilized nations. It is expected by them that even barbarians will observe it; and, therefore, they are more strictly bound by it in their intercourse with a barbarous or semi-civilized people. It is more shameful to break our plighted faith with a weak nation than with one that is our equal in power.

The claims on which the sums mentioned were paid were those of individuals, some of the lower, but mostly of the upper towns. They were in no sense national claims. Colonel Hawkins showed that to be the case when, in response to the inquiries from the War Department, in 1815, he stated the nature of the claims for which indemnity was asked. And a full list of the claims, so far as they were liquidated by him, with the name of each individual claimant, will be found in the volume entitled "State Papers, 1st session, 20th Congress, vol. 5, 1827–'8," in doc. 200, pp. 16 to 35.

It is impossible to imagine any principle on which the friendly Lower Creeks, as a people, could be required to pay these claims of individuals, partly of their own people and partly of the Upper Creeks, out of their own lands. The proposition would have been both absurd and monstrous; and accordingly we do not find that any such idea was entertained at the time, nor, indeed, at any time subsequently. When the balance due for these losses was settled, in 1852, it was attempted to make it a condition that the Creeks should relinquish their claim for compensation for these lands; but the attempt was too repugnant to the sense of justice of the House, and it signally failed.

The committee do not think that the delay of the Creeks to press this claim ought to be made an argument against its payment. No doubt they long supposed that it would be useless. The line had been marked by the sword, and the country taken despite their expostulations. They were forced to submit to a cession in which they had no voice; and the hope entertained that justice might be done them was no doubt soon abandoned. Their losses, which it had been solemnly promised they should be paid, were liquidated by agents of the United States at $195,417 90, prior to 1817. When $82,925 had been paid them, and $2,075 lost by them by way of discount, they were told by a committee of the House that their claims were found to amount to only $110,417 90, and that the payment of $85,000 was as much as they could reasonably expect; and payment of the residue was delayed for thirty-five years. Another amount of $149,000, retained from them in 1821, was not paid them until 1848, and then without interest. And in the year 1821 they were forced to pay $100,000 claimed by citizens of Georgia for spoliations prior to 1783, and between that time and 1802.

The committee is of opinion that the United States cannot with honor rely upon the lapse of time. Even if subsequent treaties, if made by a civilized people, dealing with us at arm's length and on equal terms, could be construed as a waiver of such a claim, it would not be so in the case of a depressed and dependent people. In ascertaining, under the treaty of 1821, the amount due the citizens of Georgia, the treaties of New York and Coleraine were not considered

to waive the claims under those of Augusta, Galphinton, and Shoulderbone, though the Attorney General decided that they did so.

The United States, in a far more liberal spirit than that which has actuated other nations, and especially France and Spain, have always recognized the right of the Indians to the occupancy of their lands. Those of the Creeks had been solemnly guaranteed to them by the treaty of New York, and by General Washington, acting in accordance with the express advice of the Senate. It has not been the habit of the United States to take lands from the Indians at peace with us, except by way of purchase. It has been well said by the late Commissioner of Indian Affairs that, except in this single instance, the government has never desired to obtain lands from friendly Indians, except by treaty, mutually assented to, and for a satisfactory compensation. The Creeks have ceded to Georgia and the United States more land than has been obtained from any other nation, and have received for it less remuneration. The memorialists truly say: "For these lands along the Spanish border they have received nothing. Out of the conquered lands they have received nothing," (except payment for their actual losses.) "Their rights in these lands have *not* been respected; their chiefs have *not* been remunerated."

They consented to cede these lands because they had no option to do otherwise, saying that they relied on the justice of the United States to cause justice to be done to them. They ask if they had not a right to expect, under General Pinckney's promises, under the eternal principles of justice, that they should not be despoiled by a nation in whose quarrel they had been involved, and for whom they had shed their blood? The committee think that this right cannot be denied. They say that even the country taken from the hostiles was conquered by the joint arms of themselves and the United States, and therefore, by every principle of equity, belonged to them jointly; that out of those lands *they* have received $195,417 90, while we have realized and are to realize over twenty millions of dollars; and they ask us if, in addition to this, we ought to retain *their own* lands without compensation? The committee has found it impossible to answer this question in the affirmative.

They truly say that this claim is an appeal to the sense of justice of Congress, and that the national honor and good faith are concerned in it. It is, of course, to be dealt with in a spirit of equity. The United States are too proud of their honor to desire to enrich themselves by despoiling the weak, or to confiscate the property of their allies without making them a fair compensation. They are not poor enough to need to do so—even in purse, and far less in honor.

It appears that during the eight years of General Jackson's administration 93,401,637 acres of land were obtained from Indians, for which was paid or to be paid, in cash or its equivalent, $26,982,068 and 32,381,000 acres of land; making, of cash payments alone, besides the land given in exchange, 29 cents an acre; and valuing the land at only 50 cents an acre, the average paid per acre was over 46 cents. The cash payments per acre to many tribes was far more.

The case of the Sacs and Foxes is one closely in point. At the close of the Black Hawk war, the government, demanding a cession of lands

as indemnity for expenses of the war, and to secure the future tranquillity of the frontier, but considering that part of the tribe had been *neutral*, (for they had not fought *for* us, as the friendly Creeks did,) took from them 5,104,960 acres of land, for which they paid *in cash* $736,924, or 12 cents an acre. *Half* of that paid to the Creeks for *all* the lands taken, would have been $1,300,000.

The Sacs and Foxes were dealt with in a manner becoming a great and magnanimous country, mercifully sparing a prostrate enemy. An American citizen can look *them* in the face without a blush. But when he reads the respectful and even humble memorial of the Creeks, he cannot but feel that they, having aided us in our time of need, and been despoiled and not rewarded when their services were no longer necessary, occupy the position of one who has conferred favors, and been recompensed with ingratitude.

By the celebrated ordinance of 1787, it was declared "*that the utmost good faith should always be observed towards the Indians;* that their lands and property should never be taken from them without their consent; that in their property, rights, and liberty, they never should be invaded or disturbed, unless in just and lawful wars, authorized by Congress."

The committee recommend the payment to the Creeks of the sum of $500,000, the value of 8,000,000 acres of land taken from the friendly Creeks, at 6¼ cents an acre, and bring in a bill accordingly.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 324.

IN THE SENATE OF THE UNITED STATES.

June 26, 1854.—Ordered to be printed.

Mr. Pettit submitted the following

REPORT.

[To accompany bill S. 396.]

The Committee on Private Lands Claims, to whom was referred Senate bill, No. 396, "A bill for the relief of the assignees, or legal representatives, of Jacques Moulon," have had the same under consideration, and report.

That upon full investigation of the facts, and the recommendation of the Commissioner of the General Land Office, as set forth in the report submitted by Mr. Yulee, on the 4th of May, 1846, and which report is herewith adopted, the committee are of opinion that relief should be granted as prayed for; they, therefore, report back the bill and recommend its passage.

In the Senate of the United States.—May 4, 1846.

The Committee on Private Land Claims, to whom was referred the petition of William Pumphrey, report:

That, upon consideration of the case presented by the memorialist, they have concluded to recommend the allowance of a permission to enter the land to which the petition relates at the minimum price. The accompanying communication from the Commissioner of the General Land Office will sufficiently explain the circumstances of the case; and it is, therefore, appended as a part of this report.

General Land Office, *April* 3, 1846.

Sir: I have the honor to return herewith the petition of January, 1846, from William Pumphrey, by his agent, with the accompanying papers, marked A to L inclusive, which you referred to this office; and on the subject of the same, I also send herewith a copy (No. 1) of a letter, dated February 19, 1845, from this office to the chairman of the Committee on Private Land Claims of the House of Representatives, and respectfully report:

That this petition is for the confirmation to said Pumphrey, under

Jacques Moulon, of a tract of land on the *east* or *left* side of the Bayou Teche, (see plat, paper L,) in virtue of long-continued occupancy and possession; that the claim of Moulon, in right of one Forstall, under Spanish patent, for land on the *right* bank of the Teche, was confirmed by the board at Opelousas, by certificate A 1575, in October, 1811; that. on the 11th May, 1815, the commissioners at Opelousas reported, under No. 25, on the claim of Moulon on *both sides* of the Teche, and expressed an *unfavorable* opinion on the claim on the *left* side.—See paper A, and State Papers, "Public Lands," (D. Green's edition) vol. 3, page 139.

That it appears the claim for land on the *left* side was filed on August 25, 1836, at Opelousas, with a view to examination and report thereon, under the act of February 6, 1835; that it was not reported on to Congress under that act, (see papers No. 1, and B, F;) that there was a conflicting claim to the land under the special act of March 3, 1839, for the relief of George Rowe, and a decision made against the Rowe location, (paper 1;) that this claim is for land designated on the *T plat, in this office*, dated January 4, 1845, as fractional sections 1 and 2, 15 S. 10 E.—diagram No. 2, herewith, from said plat.

For a portion of this land, viz: SE. ¼ 2, 15 S. 10 E., as a tract "not yet offered for sale," a declaratory statement was filed, pursuant to the 5th section of the act of March 3, 1843, (acts 1843, p. 65,) by William H. Cook, senior, May 25, 1843, at Opelousas, as appears from an abstract in this office giving the date of settlement as May 22, 1842—such statements being filed with a view to a pre-emption under the act of September 4, 1841. In regard to this matter, I send herewith paper No. 3, being an extract from the surveyor general's report of October 23, 1844, in the case of Pumphrey and Gantt, (the latter representing the Rowe location;) also, a copy of the paper A, therein referred to, being a transcript of an agreement between one Cook and Pumphrey.

As it seems that the claim to this land was filed in 1836, I do not regard it as liable to pre-emption under the act of 1841.

In view of the facts of the case as presented in the report of the old board, and the papers herewith, I am not clear that it is such a claim as would authorize the confirmation as a donation; but respectfully suggest for consideration of the honorable committee, whether it is not such a case as to warrant relief to the party by an act authorizing the assignees or legal representatives under Jacques Moulon to enter, at the minimum price, the land embraced in said fractional sections 1 and 2, 15 S. 10 E., southwest district Louisiana; but not to interfere with any valid right in others, if such exist.

With great respect, your obedient servant,

JAS. SHIELDS, *Commissioner.*

Hon. D. L. YULEE,
Chairman Committee Private Land Claims, Senate.

No. 1.

GENERAL LAND OFFICE, *February* 19, 1845.

SIR: I have the honor to return herewith the petition of William umphrey and the accompanying papers, which you enclosed to me, ıd respectfully submit the following:

The petition is for the confirmation, in right of Jacques Moulon, of a act on the east or left bank of the Bayou Teche, in township 15 south, ' range 10 E., Lousiana. From the papers it appears that the claim as filed in the land office at Opelousas, to be reported for the action ' Congress under the act of February 6, 1835, entitled "An act for e final adjustment of claims to lands in the State of Louisiana," but as *not* reported under that act.

The land now claimed was located under the act of March 3, 1839, ıtitled "An act for the relief of George Rowe." The matter was exnined by the surveyor general after notice to the parties, and that ficer made an elaborate report to this office, (with the testimony,) deding against the validity of the *Rowe* location; and after an examinaon of that report and accompanying papers, I advised the surveyor ›neral, under date of the 23d of November last, that I was "satisfied at the location referred to is inadmissible and invalid under the law." ıould the honorable committee determine that the claim in right of *'oulon*, on the east side of the Teche, is of such a character as to warnt its confirmation, (and on this point I am not clear,) it is respectlly suggested that the confirmation be to the "legal representatives ' Jacques Moulon."

With great respect, your obedient servant,

THOS. H. BLAKE, *Commissioner.*

Hon. JOHN SLIDELL,
Chairman of the Com. on Private Land Claims,
House of Representatives.

A.

This agreement, entered into this 2d day of September, 1839, beeen William H. Cook, sr., of the one part, and William Pumphrey, the other part, both of the parish of St. Mary, witnesseth: That, r and in consideration of the sum of fifty dollars in hand paid, the ceipt whereof is hereby duly acknowledged to him, the said Cook, ıid by him the said Pumphrey; in consideration whereof, the said ›ok has this day agreed to settle, and keep possession of, a certain ıct of land immediately opposite the tract of land now owned by said ımphrey, and directly above the land belonging to Romeo Verdine; ıd it is expressly agreed by and between the said parties that the said ›ok shall occcupy the said land for the space of twelve months from is date; and the said Cook agrees to live on the said land for two ›ars from this date, if a pre-emption law should not be passed; and one should be passed sooner than that time, then he is to live there 'elve months, (unless the time should be further extended.) And the

said Cook agrees that whatever title he may acquire by settlement and cultivation of said land, during the time he lives upon the same, shall inure, and be and remain for the sole use and behoof of him, the said Pumphrey. The said Pumphrey now has a house upon the land, and agrees to furnish the materials for the purpose of fixing the rooms and gallery, and also pews for making a fence around the said house.

In testimony whereof, we have hereto signed, the day and date above.

WILLIAM H. COOK, Sr.
WM. PUMPHREY.

Test:
DAN'L FISHER.
J. SMITH.

—

STATE OF LOUISIANA, }
Parish of St. Mary. }

Before me, John A. Dumartrait, parish judge in and for the parish of St. Mary, personally came and appeared Daniel Fisher, a resident of the parish of St. Martin, in this State, who, being duly sworn, acknowledges that the annexed instrument of writing, to which he has subscribed as a witness, was executed in his presence; and the said appearer does further swear, under oath, that the signatures affixed to said instrument are genuine, he having seen the same so affixed in his presence by the parties therein contracting.

DANIEL FISHER.

Sworn to and subscribed, before me, on this 20th day of May, A. D. 1844.

J. A. DUMARTRAIT, *Parish Judge.*

—

STATE OF LOUISIANA, }
Parish of St. Mary. }

I, John A. Dumartrait, parish judge, and ex-officio recorder of conveyances in and for the parish of St. Mary, do hereby certify that the foregoing instrument of agreement has been recorded in my office in book of conveyances marked E, page 257, No. 52, 111, on the 21st instant.

Given under my hand and seal of office, this 22d day of
[L. S.] May, A. D., 1844, and of the independence of the United States of America, the sixty-eighth.

J. A. DUMARTRAIT, *Parish Judge.*

A true copy from the original on file and of record in my office.

Test:
[L. S.]

J. A. DUMARTRAIT, *Parish Judge.*

No. 3.

Extract from the report of the surveyor general of Louisiana, dated Surveyor General's Office, Louisiana, October 23, 1844.

OFFICE OF THE PARISH JUDGE, PARISH OF ST. MARY,
Franklin, Louisiana, October 17, 1844.

In conformity with the adjournment and notice of last evening, the parties being present, the examination proceeded. First, I read, in the presence of and to the parties, each and every document presented by Mr. Pumphrey and entered in the proceedings of yesterday, from No. 1 to 11, inclusive, requesting Mr. Gantt to make such objections thereto as he might deem necessary. After the reading, Mr. Gantt objected generally to the claim of Moulon—that it had been decided upon by the commissioners, and a definite quantity of land confirmed on the west bank of the Teche; and that for the balance on the east side, it was in the same condition as if it had never been claimed—that is, vacant public domain, and subject to the location of the claim of George Rowe, or to other entries under the laws of the United States; and that the location of the claim of George Rowe had been made conformably to the act of March 3, 1839, therefor, and in good faith, as far as he was concerned; and if error or wrong had been committed, it had been by the act of an officer of the government, in furnishing wrong data for the location, for which he ought not to be held responsible, and by which he ought not to be deprived of his rights. No other objections were made by Benjamin R. Gantt to said document.

The following witnesses on the part of Wm. Pumphrey, having been duly sworn by the parish judge, were then examined, viz: Charles Nettleton, page 2 of record of testimony, marked D; John Moore, pages 3, 4, and 5, of record of testimony, marked D; Honore Carline, page 6, of record of testimony, marked D. To all of which, as recorded, no objections were made by Benjamin R. Gantt, or cross-interrogatories propounded to the witnesses, other than such as there appear.

Mr. Gantt desired me to file with my report, and consider the paper marked A, a contract between William Pumphrey and William H. Cook, jr., dated September 2d, 1839, which would establish that Pumphrey had not much confidence in his claim under Moulon. To which Mr. Pumphrey objected; that it could not affect his rights in this case, as, finding that officers of the government were willing to take advantage of his position, they would not report upon the claim preferred for this land, and might defeat his just rights under Moulon; he had a right to receive what he conceived actually belonged to him by any other legal means which might be recognised by the government, under any laws for the entries of lands which had been or might be passed by Congress; and that he had no other purpose in making the contract with Cook than to hold possession of the land, and to receive, by preemption, what might be wrested from him through the agency of public officers, by permitting the location of claims, as in the matter now in contest, or by settlement by other people upon what had been improperly represented by officers of the government as public land.

ɔd Congress, 1st Session. [SENATE.] Rep. Com. No. 325.

IN THE SENATE OF THE UNITED STATES.

June 27, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

(To accompany Bill S. 419.)

he Committee on Pensions, to whom was referred the petition of Sherman Pierce, beg leave to report:

That the petitioner served in the war of 1812 a period of about seventy-'e days, (being the full term of his enlistment,) and was honorably scharged, all of which appears from the certificate of the Third ıditor, accompanying the papers. The petitioner now claims that ɜ health has become so impaired on account of his sufferings and ırdships while in service, as to wholly disable him from procuring a 'elihood. No evidence of sickness or disability is afforded by the lls, or his discharge. But two reputable physicians certify to his esent total disability, and their belief that it results from his remark-ıle exposure while in the service of the United States. Three of his :mer comrades in the service, attested to be men of truth and re-ectability, make oath to his having been a healthy man prior to his listment, and sick and lame, to such an extent as to wholly disable n, ever since his discharge. It appears from the affidavits of these :ee witnesses, that petitioner was quartermaster sergeant in Colonel artindale's regiment, and were embarked on batteaux, at Champlain, November, 1812; the batteaux came down the river and attempted cross the lake in the midst of a storm of snow and a strong rain. ıme of the batteaux were driven ashore on Isle La Mott, and some Grand Isle, and the men were exposed to all the inclemency of the ɜather, without shelter or sufficient provisions, for two days and ghts; and to this exposure, of which many died, the deponents attri-ıte the disability of the petitioner. The surgeons who examined him ncur in this opinion. The committee think it a case justifying the ecial action of Congress. They therefore report a bill for the relief the petitioner, granting him a pension of twelve dollars per month, ·ing the pay of a quartermaster sergeant in 1815.

IN THE SENATE OF THE UNITED STATES.

June 27, 1854.—Ordered to be printed.

Mr. Petit made the following

REPORT.

[To accompany bill H. R. No. 89.]

The Committee on Private Land Claims, to whom was referred house bill No. 98, "A bill for the relief of Henry Lewis, of Clinton county, Indiana," also, a memorial from Moses Petet praying for the relief granted in said bill to Henry Lewis, have had the same under consideration, and submit the following report:

For the reasons stated in the report of the House Committee on Claims, submitted on the 31st December, 1853, and hereto attached, the committee are of opinion that the relief provided for in the bill should be granted. Your committee find, from the evidence accompanying the memorial of Moses Petet, that the case is similar in every respect, and is founded upon the same justice as the claim of the said Henry Lewis. They, therefore, report back the bill with the accompanying amendment, which provides for the relief of Moses Pettet, and when so amended, recommend its passage.

In the House of Representatives.—December 31, 1853.

The Committee on Claims, to whom was referred the petition of Henry Lewis, of Clinton county, Indiana, report:

That the facts in the case are, that the petitioner, on the 18th January, 1837, went to the Crawfordsville land office for the purpose of purchasing the N. E. ¼ of the S. W. ¼ of section 5, in township 23, north of range 1 west; that at that time the office of receiver of public moneys was temporarily vacant; but the register of the land office, Charles Tyler, told petitioner to leave the money with him, and he would see that the land was duly entered so soon as the office of receiver was filled. The petitioner being not well versed in such things, and supposing one land officer as responsible as another, left his money with said Tyler, to wit, fifty dollars, and took from him a receipt, as follows:

"CRAWFORDSVILLE, *January* 18, 1837.

"Received of Henry Lewis, fifty dollars, to be applied to the purchase of the N. E. ¼ of S. W. ¼ section 5, 23, 1 W., when the receiver is in commission.

"CHARLES TYLER."

That said Tyler marked said land as entered on the plats in his office. The petitioner, believing that he had in fact purchased said land, took possession of it, and remained in possession, making valuable improvements, for ten years, when he was informed that his land had been purchased by one Rufus A. Lockwood. He then had a full investigation of all the facts, and found that said Tyler had pocketed his money, and that he had no title whatever for said land; but that the title was fully invested in said Lockwood, to whom he surrendered possession. Your committee further report, that at the time said Tyler received said money, and from that time to the present, he has been notoriously insolvent. Your committee, in view of all the facts, deem it equitable to report a bill for the relief of the petitioner, allowing him to purchase, free of cost, except the fees of the land officers, forty acres of land, in any State or Territory of the United States, subject to entry. The claim for improvements is not allowed by the committee.

IN THE SENATE OF THE UNITED STATES.

June 27, 1854 —Ordered to be printed.

Mr. Williams made the following

REPORT.

The Committee of Claims, to whom was referred the memorial of Charles Homer, report:

It appears that on the 13th November, 1851, the memorialist entered into contract with the United States to erect a marine hospital at San Francisco for $140,000, to be completed within twelve months. The next day—after the date of the contract—the site was designated and the work ordered to be commenced, but immediately thereafter, as appears, on the same day, the order to commence was countermanded, on account of some apprehended defect in the title to the ground. This question of title was not settled until the middle of December, 1852, a little more than a year, and not until the time for the *completion* of the building had elapsed. He did not abandon the contract in consequence of this delay, as he doubtless had a right to do, but commenced the work at once, as soon as the question of title was settled. He claims that he is entitled to damages to the amount of $45,182$\frac{47}{100}$ for this delay. The contract price of the building, as before stated, was $140,000, to this appears to have been added, by way of *extras*, a little over $60,000.

The memorialist states that in 1852 bricks could have been laid for $32 per thousand, and that in 1853 they cost $48 per thousand, and he charges the difference on 1,300,000, amounting to $20,800, and says this is the quantity required by the original contract. The amount of bricks in the building, as constructed, is stated at 1,919,368. If 1,300,000 be deducted from this, it will leave 619,368, as the amount of brick used in the extra work, which, at $48 per thousand, would be $29,729, being $20,981 less than was charged for extra brick-work. But this extra brick-work was charged at $55 per thousand, instead of $48, which appears to have been the prevailing price; for what reason is not stated.

The memorialist further states, that on the 12th November, 1852, the day before the execution of the contract, but after its terms had been agreed upon, he bought, for use in the erection of the hospital, a large lot of lumber, at $35 25 per thousand, and, in consequence of the delay, after keeping it three months and a half, he sold it at a loss of $280, and was subsequently obliged to purchase at $80 per thousand, making

a difference in the cost of the necessary cost of the lumber of $10 012 50. He also charges for his own time, while waiting for the site, 396 days, at $20 per day, $7,920, and for his clerk, at $10 per day, $3,900, and for interest on money paid for materials and kept on hand waiting for the site, and interest on money paid his clerk, $2,266 77.

The facts as to the delay in procuring the site, and as to the increased price of materials, labor, &c., are verified by the statements of sundry persons, certified to be competent judges of such matters.

There is no evidence to show, nor does the memorialist allege, that he actually suffered any loss, or that he failed to make a reasonable profit on the work as finally executed; but the claim appears to rest upon the ground that he failed to realise the amount of profit that he would have done had the government furnished the site and enabled him to go on with the building at the time contemplated in the contract. The delay is not attributed to any neglect or want of proper effort on the part of the government agents. It appears from the statement of Mr. Clark to have been caused by their inability to obtain an ordinance of the city authorities of San Francisco, which was necessary to vest an undisputed title to the property in the United States. The delay having occurred unexpectedly to both the parties, and without any blame or negligence on the part of either, the contractors might have been justified in declining to execute the original contract; but they having voluntarily elected, after the obstruction was removed, to go on and execute the contract with very considerable additions, and so far as appears in the papers before the committee, without any intimation that an increased price would be demanded, the committee do not see any legal or equitable ground upon which it can now be claimed.

It has not been the usual practice of the government in granting special relief to contractors to remunerate them for prospective, estimated, or constructive profits. It has not been usual to go beyond an indemnity for loss or damage actually suffered. In the opinion of the committee, it would be neither a wise nor safe policy to enlarge this rule. They submit the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 328.

IN THE SENATE OF THE UNITED STATES.

June 27, 1854.—Ordered to be printed.

Mr. Williams made the following

REPORT.

[To accompany Bill S. 420.]

The Committee on the Judiciary, to whom was referred the memorial of Charles Stearns, praying to be allowed indemnity for expenses incurred by him in defending his title to certain lots of ground claimed by the United States, and for expenses incurred in two criminal prosecutions brought against him by the United States authorities at Springfield—one for riot and one for malicious trespass on the lands of the United States—have had the same under consideration, and report:

The memorialist, Charles Stearns, represents that he was, and had been for a number of years, the owner in fee simple of a tract of land in the town of Springfield, State of Massachusetts, bounded eastwardly by lands owned by the United States and used for the purpose of a national armory. That the boundary line had been acquiesced in from the founding of the armory, in or about the year 1801, and no doubt or question was ever suggested on the subject until 1845, when the United States authorities of the armory, without any just ground, saw fit to question the same. That as early as the year 1827 the memorialist joined with a number of other proprietors, who also owned land adjoining his, bounded by said land of the United States, in opening a street or public highway on the westerly border of the lands of the United States, which was called Prospect street. This arrangement was made with the knowledge and approbation of the then superintendent of the armory, and in concert with him. That this street has ever since remained an open and undisturbed public highway until the year 1845, and has afforded very great accommodation to the adjoining proprietors as a means of access to their respective lots and to the public, and especially to those connected with the armory. That from time to time he had sold portions of said land and bounded his grantees by and on said Prospect street; and the said street not having been laid out and dedicated by public authority, but the fee-simple remaining in the memorialist and the other proprietors of the land over which it passed, he was legally bound, by the terms of his deed to his grantees, to keep open this street, as the only means of access to the lots purchased by them. That a portion of said ground was sold, in 1843, to one Timothy Hays, for the purpose of erecting a church thereon, and a boundary on Prospect street, as aforesaid, which furnished the only

access to it. That in the summer of 1845, after the erection of the church had commenced, the authorities of the United States armory, without notice to him or his vendees, caused the whole of said street in front of said lot, except a space of about nine feet wide, to be closed by a fence, and also erected a shed, and placed other obstructions upon the same; thus not only committing a trespass upon the land of the memorialist, but also cutting off all access whatever to the lot of said vendees by the obstruction of this part of this public street. That, having been called on by his vendees to protect their rights under his deed, which was conveyed to them by a boundary line on Prospect street, and for protection against a trespass committed by one of the officers of the government in the military department, he called upon the Hon. Secretary of War, who was then in Springfield, shortly after the trespass was committed, and notified him fully of the injury, and asked the exercise of his official authority for the purpose of removing the obstructions and repairing the wrong. From some cause the Hon. Secretary of War left Springfield without affording any relief whatever. That under these trying circumstances, being pressed by his vendees, he proceeded, on the 19th day of June, 1845, with workmen in his employ, in a peaceable manner, to remove the obstructions thus unlawfully erected, and to place the materials on or near the line between him and the United States. That this peaceable and necessary act was erroneously represented to the Hon. Secretary of War as "riotous" and a "high-handed trespass" upon the lands of the United States.

In consequence of these representations the honorable Secretary of War directed the United States district attorney to prosecute the memorialist, alleging that a "high-handed trespass had been committed, unless the major (Ripley) is entirely mistaken in regard to the limits of the public grounds," and that "it is believed that their (Stearns and his men) proceedings were riotous;" that, according to the directions of the honorable Secretary of War, warrants were issued and the memorialist and his men were arrested—some of whom were taken from their beds at midnight and thrown into prison, and there detained until morning. Memorialist and his men were hurried off to Boston, where two bills of indictment were found against him and his men; one for "riot," and one for "malicious trespass upon the lands of the United States." After a full investigation and trial of the indictment for a riot, it resulted in a unanimous verdict of acquittal, and a unanimous certificate of the jury that there was no foundation for the prosecution. The indictment found against memorialist and his men for "malicious trespass on the lands of the United States," after much trouble and expense to memorialist, was finally dismissed by the attorney for the United States. The men being generally poor, and acting under the direction of the memorialist, he felt bound to pay all the expenses incurred by them, which he did.

The memorialist further states that, for the purpose of bringing his case fully within the rule and placing his title beyond all question, he caused a suit to be brought against the superintendent of the United States armory, in his private capacity, for trespass. The court of common pleas decided that the title to the land was in the memorialist.

The supreme court of the State of Massachusetts subsequently affirmed this decision of the lower court.

The committee, after examining the evidence accompanying the memorial with great care, are of the opinion that the facts set forth by the memorialist are substantially proven; that the prosecutions instituted against him were without any just foundation, and such as would, against a private person, have entitled him, not only to receive all the expenses incurred in his defence, but large damages for the loss of time, vexation, and mental suffering undergone by him in consequence thereof. The fact being clearly and fully established, by the State courts, that the land claimed by the United States officers was the property of the memorialist, the trespass committed, therefore, was by the former and not the latter. After the decision, heretofore alluded to, the government of the United States purchased the property of the memorialist, and thereby recognizing his title to the same. Satisfactory evidence was adduced that the whole proceeding against the memorialist was by direction of the government; and the cost of all the proceedings were paid by the United States, assuming, throughout, the entire responsibility.

The committee, in view of all the circumstances, are of the opinion that Congress, in right and justice, is bound to make the memorialist a reasonable indemnity. A bill is, therefore, submitted with this report, providing for the payment to the memorialist of the amount of his expenses incurred in the legal proceedings, with a small addition thereto, as the very least which a sense of justice should induce Congress to grant.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 329.

IN THE SENATE OF THE UNITED STATES.

June 28, 1854.—Ordered to be printed.

Mr. Seward made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Gabriel Druton, praying that further relief may be granted to the soldiers of the war of 1812, *beg leave to report:*

That they have had the same under consideration, and find that the same relief and benefits, in all material points, are granted by the existing laws to soldiers of the war of 1812, as to those of any other war, since that of the revolution. They do not deem it expedient to so amend the law as to place soldiers of the war of 1812 upon a more favorable footing than is now provided by the general statutes, equally, for all who have served the country since the year 1793. Nor do they deem it expedient to extend the provision of the law relating to those who served in the revolution, (which pensions for the *mere fact of service, whether disabled or not,*) to those who since that time have served in the various wars. To do so would quarter upon the treasury tens of thousands, who do not pecuniarily require assistance; and would make the pension system a serious burthen upon the country. They ask to be discharged from the further consideration of the petition.

CONGRESS, [SENATE.] REP. COM.
: Session. No. 330.

IN THE SENATE OF THE UNITED STATES.

JUNE 28, 1854.—Ordered to be printed.

Mr. SEWARD made the following

REPORT.

[To accompany Bill S. 421.]

Committee on Pensions, to whom was referred the petition of Abraham Cutter for pension, beg leave to report:

ıat the petitioner was second lieutenant in a company of Canadian ıteers, serving in the United States army in the war of 1812–'15, served a greater portion of the duration of said war, incurring y pecuniary losses in consequence of his abandonment of property ınada. That, in consequence of illness induced by exposure and ship in the service, his constitution became so shattered and his ral health so poor that he was compelled to retire from the service nuary, 1815. That he has since that time been disabled from ning a livelihood in consequence of the diseases contracted in said ce. He therefore prays to be allowed such pension as Congress deem right and proper.

ıe statements of the petitioner are sustained by certificates and ıvits of General Winfield Scott, Captain Mordecai Myers, Nicholas ey, late a member of Congress, and Mr. Peter Young, a comrade :titioner. Two surgeons, Moses Thompkins and Lewis Post, cer- to be reputable in their profession, testify as to the total disability titioner. All the papers are properly authenticated.

a letter from the Commissioner of Pensions of June 21, 1854, he that the case was first presented to that bureau, but the proofs, were not such as the *rules* required, and relief can only be granted ongress. He also expresses his opinion that the case is a merito- one.

view of all the facts, the committee are of opinion that the peti- r is in justice entitled to a pension, at the rate of the half-pay of ank he held in the army, and they herewith report a bill for his

here is also in the petition a claim preferred to arrears of pay for :es which the petitioner alleges the rolls, by mistake, fail to show. claim for arrears of pay would properly go to the Committee of ıs, and the committee ask to be discharged from its further con- ıtion.)

33d Congress, 1st Session. [SENATE.] Rep. Com, No. 331.

IN THE SENATE OF THE UNITED STATES.

June 29, 1854.—Ordered to be printed, and that 100 additional copies be printed for the use of the Senate.

Mr. Mallory made the following

REPORT.

The Special Committee, to whom was referred the memorial of Ithiel S. Richardson upon the subject of his proposed atmospheric telegraph, report:

That Ithiel S. Richardson has obtained letters patent for what he denominates the "atmospheric telegraph," but as these terms convey no distinct image to the mind, and but a very imperfect idea of the character and design of his proposition, your committee will briefly state them.

The idea of moving a piston within an exhausted cylinder by atmospheric pressure, and thereby transporting letters, merchandise, and even persons, is not new, and various experiments to attain this object have been made within the last thirty or forty years.

In 1810, Mr. Medhurst, a Danish engineer, proposed to carry letters and merchandise, by means of the rarification and compression of air, in a canal six feet high by five feet wide, containing a road of stone or iron. He was succeeded by the experiments of Mr. Pinkus, an American engineer; and about thirty years ago, John Vallance, esq., of Brighton, (England,) took out a patent for a new method of carrying passengers and freight, which attracted much attention and speculation at the time, but which was considered more ingenious than practical. He proposed to construct from town to town, throughout the united kingdom, air-tight cylinders of sufficient magnitude to enable ordinary wagons and cars to pass through them upon rail tracks by the alternate rarification and expansion of air.

Mr. Vallance seems to have constructed a model, and with it some experiments were made; but he probably realised the immeasurable space which too often separates theory from practice.

About the year 1838 public attention was arrested by the successful experiment at Chaillot (England) with the atmospheric railroad. Subsequently, about the year 1840, the atmospheric railroad was established between Kingston and Dalky, for the transportation of merchandise, passengers, &c., a distance of about thirty-five hundred yards, and this was followed by one in France.

Some ten years ago Mr. W. H. James, son of the Mr. James so honorably identified with the origin of the British railroads, proposed a mode of carrying mails and small packages through air-tight tubes by atmospheric pressure, very similar to the plan under consideration.

He proposes to have two tubular passages, or carriage ways, run-

ning parallel to each other from end to end of any given distance. These tubular passages are to be placed either above or below the surface of the ground, as found most convenient, and to be constructed of metal, wood, brick-work, or any other suitable material. At one termination of these tubular passages, and between them, there is to be fixed an air exhausting and forcing machine, connected by means of curved tubes with each of the tubular passages; which machine is to be actuated by a steam-engine or any other suitable and competent power, and so arranged that when put in motion it may cause the air to flow from one passage into the other with very great rapidity. A similar machine is to be placed at the other termination of the tubular passages, and connected thereto and worked in the same manner; or intermediate machines may be employed, if found necessary, so as to produce an extremely rapid and continuous current of air in both directions throughout the whole distance. The vessels or carriages for containing the letters or parcels to be transmitted are to consist of spherical-shaped vehicles or bags *formed of caoutchouc*, or other suitable materials, and are to be so constructed as to be perfectly elastic, and to retain their shape independently of what they contain, and capable of being *beaten* or *buffetted* about like a foot-ball or boxing-glove without injury; being of the least possible weight, and having at the same time the requisite strength. It is further proposed that these spherical bags or letter carriages should be about fifteen inches diameter when the tubular passages are about eighteen inches, and that each shall contain only about a hundred letters at a time, so as to have great surface in proportion to weight. It is *imagined* that, on being introduced into the current of air, they will be carried forward, one after the other, like so many small balloons in a strong gale of wind, without, perhaps, even rolling against or *touching* the inner circumference of the tubular passages.

The distinction between this method and that of Mr. Richardson is not one of principle, but of detail; but this distinction seems to involve the *impracticability* of the one, and the *practicability* of the other; while in Mr. James's plan the letters enveloped in spheroid caoutchouc bags of a diameter *three inches less than that of the tube* through which they pass, leaving thereby a *clear space upon all sides of an inch and a half for a free passage of air.* Mr. Richardson's *plunger exactly conforms to the tube*, and admits *not the passage of air beyond it.*

These various propositions are *all based upon certain well established facts and principles.*

The atmosphere presses with equal intensity in all directions, whether on vertical or horizontal surfaces. And this pressure may be taken to be equal to fourteen and three-quarter pounds to the square inch.

If we place upon the ground a tube of uniform diameter, open at both extremities, and accurately adjust within it a piston capable of sliding in either direction, the piston of course remains stationary, the atmospheric pressure upon its surfaces being equal. But if we insert and confine the piston at one end and, by means of an air pump at the other, exhaust the tube, the piston, upon being released, will pass through the tube at a speed equal to about (635) six hundred and thirty-five miles per hour, modified by its weight and friction.

Partial exhaustion would reduce this velocity; and if we insert the piston at one end, leaving it free to act, and work the air-pump at the other, the piston will move after a very slight rarification, dependent, as before stated, upon its weight and friction.

When the operation is performed in this manner, the air-pump has the control of the plunger's momentum, and may check or accelerate it at pleasure by the aid of a valve in the tube; and the pump, by exhausting the air in front of the advancing plunger, seems, in fact, to be drawing it onward, rather than clearing the way for the pressure of the following atmospere.

Mr. Richardson exhibits a very beautiful model of his telegraph, which has been for some weeks past in one of the committee rooms of the Senate for inspection, and which your committee has frequently and carefully examined. It consists of a horizontal tube of one inch clear diameter, one-half of which is straight, while the other half contains curves, designed to represent the sinuosities of the tube passing over uneven ground. One small air-pump, placed near its centre, and communicating with either end of it, exhausts it at pleasure from left to right, or from right to left. A piston, or plunger, three inches long, and fitting the tube loosely, but followed by several detached disks, or washers of leather, which accurately fit it, is inserted in one end of the tube, separated by a cut-off; and a few strokes of the pump produce in the tube a partial vacuum. The cut-off is then reversed, and the plunger *set free on the side of the vacuum, relieved from the resistance of the air in the tube,* and propelled alone by the pressure of the atmosphere, passes through it in a time wholly unappreciable by ordinary means. The cut-off may be dispensed with; for if the plunger, with its miniature mail-bag attached, be placed in one end of the tube, and the pump be worked, it will move (*supposing an absence of weight and friction*) with the first stroke of the pump, which destroys the equilibrium between the internal and external atmosphere; and the degree of exhaustion necessary to produce this momentum must depend upon the weight and friction of the plunger and its attachments.

This model works admirably; and, without going into details of its construction, it seems to have *overcome all difficulties, and some which have been long supposed insuperable in the practicable operations of the* "atmospheric telegraph."

A mercurial barometer, whose base connects with the interior of the tube, instantly exhibits the changes in the rarification of the air within it, produced by every stroke of the air-pump; and this device is useful, enabling us to perceive at a glance how slight a rarification of the atmosphere within the tube causes the piston, or plunger, with its "mail-bag," to move forwards.

Whatever differences of opinion may exist as to the properties of our atmosphere, its origin, its utmost limits from the earth, its laws of motion and expansion, sufficient reliable data are established to enable us to arrive at correct conclusions with reference to the principles involved in this proposition.

The density of the atmosphere decreases as we ascend from the earth, and whatever the height may be, we know that its pressure or weight

on a square inch of surface is capable of supporting a column in the barometer tube about 30 inches high; and as mercury weighs 13,589 ounces or 848¾ lbs. avoirdupois to the cubic foot, a simple proposition, 1,728 : 848¾ : : 30, gives 14.73 or 14¾ lbs. as the pressure of the atmosphere on every square inch of surface. Now, as mercury is about 10,800 times heavier than our air at the surface of the earth of medium density, a column of such air of equivalent weight to the atmospheric column would be 10,800 times 30 inches, which is about 27,000 feet. If we suppose a column of airiform fluid of this height to rest on a large exhausted receiver, as soon as a communication is formed between both this tall column will force the air next the receiver in with a velocity equal to that acquired by a body falling *half the height of the fluid column*, (as is supported by writers on natural philosophy,) hence an atmospheric column (whatever height it may be) will force the air at the surface of the earth into an exhausted receiver with this velocity. Now, a body in falling 13,500, the half of 27,000, feet, will acquire, by the force of gravity, 932 feet at the last of its fall. This we easily found by dividing 13,500 by 16½, the fall in one second, the square root of the quotient gave nearly 29 seconds as the time of falling; this time at the rate of 32⅙ of an increase of velocity per second gives the above. Nine hundred and thirty-two feet per second is 635 miles per hour, as 932 x 3,600 and divided by 5,280 gives 635.

Assuming, then, that the tube is thoroughly exhausted, and the closely fitting plunger permitted to pass through it unresisted and free, and without weight or friction, by atmospheric pressure, it would preserve an uniform velocity throughout its whole extent of 635 miles per hour.

But, in practice, a perfect vacuum is neither possible nor desirable; and it is believed that a degree of exhaustion, very easily attainable, will be amply sufficient for the accomplishment of a speed and power equivalent to the propulsion of fifty tons two hundred miles per hour.

The ordinary pressure of our atmosphere, as we have seen, may be taken at 14¾ pounds to the square inch; but wind, which is but atmosphere in motion, acts with a force dependent upon its velocity. When moving at thirty-five miles an hour, it exerts a force of six pounds on each square foot of an obstructing surface; at fifty miles an hour (the speed of an ordinary tempest) a force of 12½ pounds; and at one hundred miles (the hurricane's rate) 49⅓ pounds.

The weight of our atmosphere being found equal to that of a column of thirty inches of mercury, it follows that, at the hurricane velocity and pressure of 49⅓ pounds per square foot, the exhaustion or rarification indicated by the mercurial guage would only be about two-thirds of an inch; *and this result, we find, accords with the actual observations upon hurricanes.*

With these and other established data before us, we can approximate at least the degree of exhaustion of the tube necessary to cause a current of air to pass through it with twice or three times the velocity of a hurricane.

In addition to the model to which your committee has referred, Mr. Richardson has tested the working and capacity of his telegraph by laying down a tube one mile long, of three inches clear diameter, and following the elevations and depressions of an ordinary ungraded field;

and he has produced numerous certificates, from highly scientific and reliable sources, of its accurate performance and entire success. The certificates all say that the mile was traversed by the piston or plunger, to which was attached a weight of several pounds, in less than "*a minute*," but it is understood that the time was much less than this, and that this expression was used as a maximum, and to preserve uniformity in the certificates.

Your committee do not deem it necessary to present, in this report, all the details which have determined its judgment; but the relation which the atmospheric pressure, of which it has spoken, bears to the weight to be moved and its velocity, is too important to pass entirely unnoticed.

It is found, upon level railroads, that eight pounds pressure moves a ton in weight.

Now, the piston 24 inches in diameter, would expose 452 square inches of surface to be operated upon, by an atmospheric pressure of 14¾ pounds to the inch, equal to 6,667 pounds. And hence the moving power of the atmosphere upon the weight expressed in tons, would be as 8 to 6,667, or a moving force of 833 tons, on the supposition that friction would not interfere.

Many practical difficulties and objections will doubtless develop themselves whenever the "Atmospheric Telegraph" shall be established upon a large scale; such, for example, as wastage of power in the air-pumps, the wear and tear in the mail-bags, pistons, and interior surface of the tubes, by high velocities, the admission of air in the tubes, the effects of climate upon them, the expense of establishing them, &c., &c.; but your committee, after weighing these and other objections which have been suggested, deem it proper to recommend an appropriation, small in comparison with the national interests involved in its success, to test its utility and capacity.

It is deemed expedient that the experiment should be made for a short distance upon an established mail route, in order that, if successful, it might constitute a part of a more extended work; and your committee has been disposed to prescribe a direct line between Washington and Baltimore. It has, therefore, concluded to leave the question to the Postmaster General, and report a bill accordingly.

It is impossible to foreshadow the multiplied and incalculable advantages which will result from such a mail carrier as Mr. Richardson's proposition discloses.

All the business pursuits and habits of our country were radically changed by the introduction of railroads.

Not only do we find men, whose ancestors for generations never travelled beyond their native counties, passing from State to State in the daily transaction of their affairs, identifying themselves with the various sections of the Union, and bringing it together by the multiplying bonds of mutual confidence, pursuits and self interests, but under the railroads' fruitful developing and creative influence, we find the pathless forest of the west, the rich river lands of the south, and the cold granite hills of the north, yielding vast treasures hitherto locked in their unyielding grasp, to a free, happy and prosperous people. We find new States springing into existence at the call of the steam

whistle; and in the train of the resistless iron horse, the people and the products of distant widely separated lands mingle together in the commercial marts of our country.

The hand of an all-wise Providence, guiding and controlling the destines of men and nations by his inscrutable laws, enabled us to devise, in a happy moment, those iron links of brotherhood, the physical bonds, without which our widely extended and extending republic could hardly continue its beautiful, happy and glorious unity.

But railroads proved too slow for our progress; and the magnetic telegraph came to our aid in the abolition of time and space for which the age seems to be struggling.

It was but yesterday, as it were, that the genius of Morse gave us the telegraph, and enabled us to write with a long pen from one city of the Union to another; and though it was received at first with doubt, nay, with derision, it is now one of the great facts, as well as one of the necessities of the age.

At this moment, when every man seems to be a special competitor against time, when mammon is in the ascendent, and the dictum, that "time is money," impresses itself upon all the affairs of life, when hours, minutes and seconds, are pounds shillings and pence, Mr. Richardson's proposition comes upon us to supply a link which is confessedly wanting.

It was but yesterday, as it were, that a speed beyond fifteen miles per hour upon railways, or beyond seven miles by ocean steam navigation, and the transmission of intelligence by means of electric currents, beyond a single mile, were denounced by philosophers, and proved by mathematicians to be the chimeras of the dreamer; and yet our Union is reticulated and clamped together by railways, whose moral power transcends that of laws and constitutions—and upon which thousands are hourly demonstrating the philosopher's error; and by magnetic wires, wherein truth outstrips, not only the mathematician's calculations, but even the lightning, and beats time itself.

The mail between Washington and New York is now carried upon railroads in twelve hours. If your committee do not greatly err, the same mails may be carried between these cities in two hours, by the proposed atmospheric telegraph, and the expenditure now necessary for the transmission of one set of mails, would enable the Post Office Department to send six sets of mails every twelve hours.

The impulse which such a frequent, rapid and certain delivery of the mails between distant points would give to all the business of the country, is incalculable; operating with as much safety and unerring certainty in night as in day light; unaffected by changes of seasons or weather—and exempt from liability to those mischances, accidents and delays which are daily retarding the delivery of the mails throughout the country, the atmospheric telegraph seems destined to become the exclusive mail carrier of the age.

IN THE SENATE OF THE UNITED STATES.

JUNE 30, 1854.—Ordered to be printed.

Mr. PETIT made the following

REPORT.

[To accompany bill S. 423.]

he Committee on Private Land Claims, to whom was referred the petition of Gaston T. Raoul, praying permission to enter a section of land, &c., have had the same under consideration, and submit the following report:

It appears from the supplemental report of James O. Cosby, comissioner, &c., that a claim for 640 acres of land was made by "John ore, for son, a minor," and reported on favorably by said Cosby, on e 7th June, 1813.

It further appears that a certificate of confirmation, No. 168, was isıed on the 24th day of January, 1838, "for the John Core claim, for s son, a minor, in the parish of Livingston, for a section of land, by e register and receiver of the land office."

It also appears that the lands designated in this certificate of confiration was entirely covered by other claims confirmed, and therefore no ırvey could be made for the said Core claim.

It is alleged that the said minor son died, leaving his father, John ore, his only heir-at-law.

The said John Core sold and conveyed, (as appears from a duly cerıed copy of a deed,) all his right to the said land to the petitioner, aston T. Raoul.

In view of all the circumstances of this case, the committee are of ɔinion that, in justice and equity, the legal representative of the said ore, deceased, is entitled to the relief prayed for.

The committee, therefore, report a bill authorizing the said Gaston T. aoul to enter, free of cost, a section of land from any of the public lands ıbject to private entry, and recommend its passage.

1 CONGRESS, 1st Session. [SENATE.] REP. COM. No. 333.

IN THE SENATE OF THE UNITED STATES.

JUNE 30, 1854.—Ordered to be printed.

Mr. CHASE made the following

REPORT.

[To accompany bill S. 424.]

he Committee of Claims, to whom was referred the petition of Isaac Swain, report:

The petitioner presents the following account against the United ates, viz:

rst. For violation of charter contract	$4,000
:cond. For transporting the cargo of army stores from Benicia, and landing the same on the government wharf, at the government military barracks	5,000
hird. For damages to the ship in proceeding, by order of a United States officer, beyond the limits of the charter contract	3,550
ourth. For damage of cargo, as per award of United States district court, caused by United States collector at the port of Benicia	6,000
fth. For the full cost of said ship "Ellen Brooks," as per purchase from Macauley & Co., San Francisco	10,000
Amounting to	$29,150

It appears, from a copy furnished, that a charter party was entered to between the petitioner, master of the American ship "Ellen :ooks," and Joshua Waddington, as agent for Major Lee, United ates army, on the 30th April, 1851, for the transportation of certain ilitary stores from Valparaiso to Benicia for $4,000. For the dis- :arge of said cargo ten working days were to be allowed, and "the :nalty for non-performance of this charter party $4,000."

Major Andrews, United States army, certifies as follows, viz:

DEPOT OF SUBSISTENCE,
Benicia, California, July 10, 1851,

SIR: Your notification of arrival and readiness to discharge the rgo of the ship "Ellen Brooks" containing subsistence stores for the my, yesterday afternoon, was duly received.

Very respectfully,
GEORGE PEARCE ANDREWS,
Brevet Major U. S. A., A. C. S.

To Captain ISAAC SWAIN, *of ship Ellen Brooks*

P. S.—Your coming up to the government landing was in compliance with my directions, as customary in like cases.

GEORGE PEARCE ANDREWS,
Brevet Major U. S. A., A. C. S.

Major Andrews also certifies (copy furnished) to the delivery of the stores and compliance with the charter party 28th July, 1851.

The first item ($4,000) rests upon the fact that the cargo was not received at Benicia, but at the government landing, and that a delay beyond the ten days stipulated for discharging the cargo was caused by the collector refusing to grant a permit without payment of duty until the case was referred to the collector at San Francisco. There was a detention of eight days, and W. Porter, J. Fernsby, and R. C. Williams, shipmasters, resident at Benicia, depose, that they think "the damage that should be allowed the said ship Ellen Brooks per day for detention is $75," exclusive of all other reclamations. This for eight days, would amount to $600.

The second item ($5,000) is for transporting the cargo from Benicia to the government hulk. The distance is not stated. Major Andrews says: "On the morning of the 9th July, 1851, I called at the office of the deputy quartermaster at this place, and was informed by him, that the ship Ellen Brooks had arrived at Benicia, and that Captain Swain was unwilling to come up to the government landing. The quartermaster requested me to call on Captain Swain and tell him that his ship could not be discharged unless she was brought up to the government landing. I went to Benicia, saw Captain Swain, and on his verbal report that he was ready to discharge, told him to proceed to the quartermaster's landing. At office hours, next morning, I received a note, dated and written the day before, reporting compliance with my directions."

The committee are of opinion that neither of these items ought to be paid. They do not think that the penalty of $4,000 was intended to be applicable to the government. The person making the contract had no authority to bind the United States in that manner. But even if this were otherwise, they do not think the government violated the charter-party in a manner to incur the forfeit.

The third item is for damage to the ship in consequence of going up to the government landing. Phineas Hudson, shipwright, and A. Plummer, rigger, estimate this damage, upon examination, at $3,550, the amount charged.

This evidence, and the testimony heretofore alluded to, sufficiently shows, (in the judgment of the committee) that this injury to the amount stated was incurred to the vessel in consequence of its being required by the military officers in command at that port to proceed beyond Benicia to the government hulk to discharge the cargo. They, therefore, deem this a just and equitable claim.

The fourth item is for damage to the cargo, in consequence of detention at Benicia. It is alleged that the ship, on proceeding to San Francisco, was libelled for damage to the cargo. The evidence in support of this claim is a copy of a certificate of the clerk of the United States district court, and is as follows, to wit:

RAPHAEL ORREGO, and als., vs. SHIP ELLEN BROOKS. } United States of America. Northern district of California.

I hereby certify that the following named persons, libellants and interveners in this suit, were awarded the amounts, respectively, placed opposite to their names, by the commissioner to whom was referred to report thereon the amounts due:

Raphael Orrego	$866 00
James Duncan	1,400 70
Wm. Jolliffe	256 00
Wm. F. Clark	3,538 86
	6,060 86
And costs	643 63
	6,704 49

In witness whereof, &c.

JOHN A. MUNROE, *Clerk.*

George Sears deposes that he was mate to the ship "Ellen Brooks" on the voyage; that, on the arrival at Benicia, all the cargo then on board was in good order; that, in consequence of the refusal of the military officers to pay the duties, the revenue officer came on board and closed the hatches, and kept them closed, preventing the air from penetrating the ship, until the 28th June—being twenty consecutive days—which closing of the said ship caused the destruction of all the apples, peaches, and potatoes that were on board.

The committee are not prepared to admit the validity of this claim, and cannot recommend its allowance.

Under the charter party, the government was to be allowed ten working days to discharge the cargo. The vessel appears to have been actually detained from the 8th to the 28th of the month—being twenty days; if two days be deducted for Sundays, it would leave a detention of eight days beyond the time allowed, and it is in evidence that a reasonable compensation would be $75 per day, amounting to $600. This sum, added to the sum of $3,550, the damage to the vessel, is the amount of relief to which the committee think the petitioner entitled; and they report a bill, in accordance with these views, to pay him $4,150.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 334.

IN THE SENATE OF THE UNITED STATES.

July 1, 1854.—Ordered to be printed.

Mr. Bright made the following

REPORT.

[To accompany Bill S. 96.]

'he Committee on Finance, to whom was referred the subject of the debt of the late republic of Texas, beg leave to submit the following report:

That, after a very thorough investigation of this complicated subject, ıey have determined upon an adjustment between the United States, 'exas, and her creditors, which they think should command the aproval of both houses of Congress. By the amendments offered in ıe form of a new bill, as a substitute to that recommitted to the Comıittee on Finance, it is proposed to release the United States from the ɔligation to deliver five millions of stock, bearing an interest of five ɜr centum, due in eighteen hundred and sixty-four, and amounting, on ıe first day of January, eighteen hundred and fifty-five—principal, ıterest, and premium—to six million five hundred thousand dollars, ıd in lieu thereof to pay eight millions five hundred thousand dollars *ro rata* amongst the creditors of Texas, upon their filing full and final ·leases to the United States.

The great diversity of opinion that exists among the first statesmen ıd legal minds of the country, as to the extent of the liability of the nited States for the debt of the late republic of Texas, upon its inɔrporation into the confederacy of States, makes it eminently proper ıat a few of the arguments used in support of that liability should be nbodied in this report; and your committee consider that this can robably be best done by introducing into this report, as a part thereof, memorial signed by B. H. May and others, in behalf of the creditors ' Texas, as follows:

'he memorial of the creditors of the late republic of Texas to the Congress of the United States:

1st. They respectfully represent that on the 3d of March, 1845, the ɔvernment of the United States proposed to the republic of Texas ɜrtain terms of annexation, which were accepted on the 4th of July ·llowing, by the unanimous voice of a convention at Austin assembled ır that purpose.

The effect of this act was to destroy the national sovereignty of 'exas and incorporate her as one of the States of our Union, at the

same time that it rendered the United States responsible for the debt of Texas, as well as for her existing war with Mexico. The last obligation has been fully discharged by a succession of glorious victories won upon the soil of the enemy and terminated by an honorable peace.

But *eight years* have passed away—*eight long years* of "hope deferred"—and no part of the debt due your memorialists has been paid. The liability of the government of the United States to pay them, as far as their debts were secured by a pledge of the "duties on imports," cannot, they believe, be successfully questioned before any judicial tribunal on earth; and it has been repeatedly recognized by Congress, as well as by the executive department of the government: 1st. By the compact of annexation in 1845; 2d. By the boundary act of 9th September, 1850. The following extract from the official report of the late Secretary of the Treasury is submitted, as conclusive on this point:

"It is obvious, from the most careless perusal of the law, (the act of 9th September, 1850,) that Congress considered the United States as liable to pay all that portion of the debt of Texas for the redemption of which 'duties on imports' had been pledged by the laws of Texas.

"Upon no other hypothesis is there any justifiable motive for requiring releases to the United States to be filed for such claims before Texas should receive the last five millions of the stock to be paid her. In other words, Congress admitted the liability of the general government to pay all that portion of the public debt of Texas, and laid its hand upon five millions of the stock provided for as a security that Texas should pay that portion of her debt, or, on her failure to do so, the five millions thus withheld should be a fund out of which that class of the creditors of both Texas and the United States should be paid in whole or in part, as the relative amount of such debt and the fund reserved should determine.

"The history of the debt contracted by Texas while she was yet an independent power, and her subsequent incorporation in the Union as a State of the republic of the United States, it is believed makes the United States liable for this portion of the Texas debt.

"The laws of nations which govern the subject are well understood, and of easy application to the present question. These laws all proceed upon the idea that the moral obligations of independent States are binding when once they attach to compacts between States, or between States and individuals, and that they never cease except by the voluntary agreement of the parties interested, or by their fulfilment and complete discharge. Hence, where an independent power contracts obligations, and is afterwards, by the act of another power jointly with herself, incorporated into and subjected to the dominion of the latter, whereby the national responsibility of the former is destroyed, and the means of fulfilling her obligations transferred to the latter, all such obligations, to the extent at least of the means thus transferred, attach with all their force to the nation to whom such means have been so transferred.

"It will be found that all writers on public law, having any authority,

are agreed upon this point, from the time of Grotius to the present. Indeed, the proposition thus asserted is so obviously just that it is not possible for a nation in modern times to controvert it without forfeiting that character for justice and probity which, happily for mankind, has become indispensable for sovereign States. It was this view of the subject which, doubtless, dictated that provision of the law which I am now considering.

"It was known to Congress that Texas had contracted debts to a large amount to individuals while she was an independent power. It was equally well known that revenue arising from 'duties on imports' was amongst all nations in modern times one resource, if not the principal one, for the payment of the debts of nations. It was known also by the framers of this act that, by the annexation of Texas to the United States, the power to levy duties on imports within the ports or territories of Texas was taken away from the latter and transferred to the United States. It was therefore assumed that the United States should pay, if Texas did not, all that portion of the debt of Texas for which duties on imports had been pledged, for the obvious reason that these duties, thus pledged, were taken from Texas and transferred to the United States; and to that extent the creditors of Texas, by a plain principle of justice, had become the creditors of the United States."

This opinion was sustained by President Fillmore, and has been reaffirmed by the present administration, with a slight variation as to the particular debts to which the limited terms of the act of 9th September, 1850, applied.

Your memorialists deem it unnecessary to add anything by way of argument or authority to this imposing array in their behalf. They do not believe that any precedent can be found against them; certainly every principle of justice is on their side.

Whether one nation is absorbed by another by conquest, by purchase, or by any other means, the law is still the same, as has been well settled by judicial decisions, and by all writers on public law. (See 6th Peters, Arredondo's case; Bynkershoek, 1st Book Questiones; Juris Publici, chapter 25, page 191.)

Your memorialists do not allow themselves to believe that Congress will repudiate these high authorities, or disregard their binding power.

2d. There is another ground on which they base their claim to full payment by the government of the United States, and upon which they would willingly stake their case in the Supreme Court, or before any other honest and intelligent tribunal.

By the compact of annexation it was provided that Texas should cede to the United States "all public edifices, fortifications, ports, barracks, and harbors, navy and navy yards, docks, magazines, and armaments, and all other means pertaining to the public defence," and that Texas should retain "all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State might direct."

On the 9th of September, 1850, the government of the United States, by solemn act of Congress, proposed to the State of Texas to pay ten

millions of dollars, in five per cent. bonds, for all her territory *exterior* to certain boundaries therein specially described, which proposition was unanimously accepted by the Texas legislature on the 25th of November, 1850. The one sovereign power selling and the other purchasing a portion of the very "vacant and unappropriated lands," the proceeds of which *both had agreed* should be sacredly "*applied to the payment of the debts and liabilities of said republic of Texas.*" Now, your petitioners respectfully submit that, according to every established principle of law and equity, *they* were the beneficiaries in this contract, and *their debts* ought to have been fully paid before any part of said ten millions of dollars could be properly disposed of for any other purpose, and that the government of the United States was bound to see this trust faithfully executed, and is responsible accordingly.

Your memorialists have thus again respectfully submitted their case Congress, and ask for payment. Year after year they have been postponed, until many of them have been forced to sacrifice all their property to pay their just debts, and some of them have been utterly ruined. If the government of the United States, at this late day, in the face of all authority held sacred among men, refuses to pay them, then at least the money due to Texas should be handed over to them, to relieve her from responsibility.

All which is respectfully submitted.

B. H. MAY, *of Virginia.*
JAMES S. HOLMAN, *of Texas.*
LESLIE COMBS, *of Kentucky.*
G. B. LAMAR, *of New York.*
J. MILLBANK, *of New York.*
On behalf of the creditors of Texas.

A majority of the committee concurs generally in the views expressed in the above memorial, whilst a minority of the committee considers that the only liability of the United States to pay any portion of the debt of Texas, arises solely from the consideration that by the terms of the act of eighteen hundred and fifty, known as the compromise measures, the United States became bonnd to pay to the State of Texas, for the benefit of her creditors, five millions of a five per cent. stock, upon the creditors filing releases to the United States. This sum, amounting as before stated, principal, interest and premium, on the first day of January next, to six millions five hundred thousand dollars, the said minority of your committee expresses its entire willingness to pay in any manner that will receive the approbation of Texas. The State of Texas, as is well understood by all, who will be called upon to act in the adjustment of this embarrassing question, proposes to pay her debt at what is known as the scaled rate. This, a large majority of her creditors refuse to accept, and the committee think they very properly refuse, as a manifest injustice to the holders of the larger portion of this debt. The bill further proposes to submit this adjustment to Texas for her assent. This, your committee deem respectful to that State, and at the same time, believe that the provisions of the bill are so just and equitable to all the parties concerned, and so liberal to

Texas, that she will not refuse to meet this offer with a prompt affirmative response.

The amount of the debt of Texas held by her creditors, to be liquidated under the provisions of this bill, principal, and interest, is about eleven and a half millions of dollars. These debts were contracted by Texas when she had entire control of her revenues and lands. It was undoubtedly the intention of Congress in the passage of the compromise measures, to retain sufficient of the ten millions, to pay off these debts of Texas. This bill, in proposing to pay to these creditors, eight and a half millions of dollars, with the assent of Texas, in lieu of the five millions of five per cent. bonds, is only carrying out that intention, without increasing, in the slightest degree, what would be the liability of the United States at the expiration of the fourteen years which these bonds have to run. The whole question indeed, is narrowed down to the simple proposition, whether the United States will wipe out a debt of eleven and a half millions of dollars, for which ultimately they will be held responsible, with a heavy accumulating interest, by the paymen of eight and a half millions now, an amount which, at the expiration of ten years, they have obligated themselves to pay, and thus settle a most unpleasant, difficult, and embarrassing controversy with one of the States of the Union. The subject has been before Congress since eighteen hundred and forty-six, at the instance both of the creditors of Texas, and of the Treasury Department, and it is extremely important that some fair, proper, and honorable adjustment should be made. To this end, the committee recommend the passage of the accompanying bill.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 335.

IN THE SENATE OF THE UNITED STATES.

July 1, 1854.—Ordered to be printed.

Mr. Slidell made the following

REPORT.

(To accompany Bill S. 430.)

The Committee on Foreign Relations, to whom was referred the petition of H. S. Sanford, late secretary of legation at Paris, praying the difference between his pay as secretary of legation and as chargé d'affaires, &c., during the time he acted in the latter capacity, have had the same under consideration, and report:

That it appears from a letter of the Secretary of State, dated June 21, 1854, that the petitioner was appointed secretary of the legation of the United States at Paris on the 20th August, 1849; that from the 14th of May, 1853, to the 22d of January, 1854, a period of eight months and eight days, he was left in charge of the legation as acting chargé d'affaires *ad interim;* that during that period he was allowed clerk hire; and, further, that in several instances when secretaries of legation at Paris have been left as chargés d'affaires, Congress have allowed them outfits, though it is not a matter of course to make such allowance.

In view of the importance of the mission to Paris, the necessary increase of expenses incident to the change from the position of secretary of legation to that of chargé d'affaires, and in accordance with the general current of precedents in relation to diplomatic agents of the United States at that court, your committee are of opinion that the petitioner's claim for an outfit and the difference in salary between a secretary of legation and chargé d'affaires is reasonable and should be allowed, and report a bill accordingly, with a recommendation that it be passed.

33d Congress, 1st Session. [SENATE.] Rep. Com No. 336.

IN THE SENATE OF THE UNITED STATES.

July 1, 1854.—Ordered to be printed.

Mr. Slidell made the following

REPORT.

The Committee on Foreign Relations, to whom was referred the memorial of Robert M. Hamilton, United States consul at Montevideo, praying compensation for diplomatic services, having had the same under consideration, respectfully report:

In his memorial, Mr. Hamilton represents that, as consul at Montevideo from the year 1838 up to that time, he had been the sole accredited agent of the United States near that government. That, in consequence of the war pending between that country and Buenos Ayres, nearly his whole time was taken up in performing diplomatic duties, in nowise appertaining to his consular office. That for these services he has received no compensation whatever, and that his consular fees during the time amounted to only $500 a year.

From a letter of the Secretary of State, to whom this memorial was referred, dated February 5, 1851, it appears that "Mr. Hamilton was appointed United States Consul at Montevideo in 1838, at which place a legation of the United States had never been established. That entirely uninstructed and unauthorized by the department, except in two cases of claims of our citizens against the oriental republic, hereinafter mentioned, he entered into correspondence direct with that government, touching the protection of the interests and persons of our citizens, copies of which were, from time to time, transmitted to the department. That on the 27th August, 1846, Mr. Hamilton was requested by the department to obtain from the oriental republic a release of any interest it might have in the claim of Commodore Danels on the government of Columbia; and on the 1st December, 1847, he was instructed to demand of that republic that the arrears of interest due Messrs. W. Musser & Co., under the arrangement made with Commodore Turner, for gunpowder seized, be paid at once, and that the payments to become due be punctually met."

It further appears from said letter, that "in February, 1846, Mr. Hamilton, through his agent, presented a claim to that department for compensation for diplomatic services for seven years, which was rejected on the ground that the act of May 1st, 1810, prohibited such payments, unless to persons regularly appointed; and further, that the department had never regarded Mr. Hamilton as a diplomatic agent of the government, and, until the presentation of that claim, was not aware that he regarded himself in that light."

All the precedents referred to by the memorialist, in support of his claim, relate to secretaries of legation performing diplomatic functions in the absence of the minister, except four, two of which provided compensation for consuls performing diplomatic services during the temporary suspension of regular diplomatic relations previously established, and the others to informal agents specially charged with such services. And further, after having caused a careful examination to be made of all the precedents in such cases, your committee have been unable to find a single instance in which such claims have been allowed to United States consuls, except those cases in which, during the temporary absence of the minister, or suspension of diplomatic relations, the consul has been placed in charge of the archives of the legation, or specially instructed to perform such duties.

From this practice, founded in, and sustained by, considerations of a just and wise policy, your committee find nothing in this case to justify a departure. They therefore recommend that the claim be rejected.

IN THE SENATE OF THE UNITED STATES.

July 1, 1854.—Ordered to be printed.

Mr. Clay made the following

REPORT.

The Committee of Claims, to whom was referred the memorial of the legal representatives of Henry Payson, assignee of John Randall, owner of the schooner "Contradiction," praying indemnity for the confiscation of that vessel and cargo at the Island of Margaritta, in 1812, *have had the same under consideration, and report:*

There is no evidence accompanying the memorial to sustain the allegations on which the claim to relief is predicated, save what purports to be copies of letters from the captain and supercargo of the vessel, Don Pedro Pascal. Even the correctness of these copies are unattested. There is no cause assigned for the delay of more than forty years in preferring the claim; nor is the amount of the loss or damage shown or even stated.

Reference is made in the memorial to the treaty of 22d February, 1819, between Spain and the United States, containing a stipulation on the part of our government to release Spain from all claim to damages arising out of cases such as this is alleged to be. It is said that a commission was appointed to hear and determine the cases embraced in the stipulation, and claims allowed to the amount of five millions of dollars, but "which sum," the memorialist says, "did not embrace the claim of John Randall."

Whether this claim was rejected by the commission, or was not presented to them for adjudication, or why not presented, is left to conjecture, or to be ascertained from other sources than the papers furnished.

Without proof to sustain the claim, and with so many circumstances attending it calculated to excite distrust and suspicion, the committee would feel bound to reject the prayer of the memorialist even if the memorial presented a case entitled to relief when properly sustained by proof.

But this is not all. Upon examination of the papers on file in the State Department, it is found that the case of the Contradiction was actually preferred and argued before the commission before alluded to, and that it was rejected for want of sufficient testimony to sustain it. And further, that a petition for a re-hearing was filed; but whether the re-hearing was refused, or, being granted, the claim was again rejected, does not appear.

The committee concur fully with the commissioners that the claim is

not sustained by testimony. But if they had any doubt on that point, they would be unwilling at this late day to revise and overrule the decision of the proper tribunal for the adjudication of the case. It would be a bad precedent, and would impose on Congress the task of reopening and revising a multitude of cases already properly adjudicated and rejected.

The following resolution is submitted:

Resolved, That the prayer of the memorial of the legal representatives of Henry Payson, assignee of John Randall, ought not to be granted.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 338.

IN THE SENATE OF THE UNITED STATES.

July 6, 1854.—Ordered to be printed.

Mr. Clay made the following

REPORT.

The Committee on Pensions, to whom was referred the "petition of Moren Moore, praying to be allowed the difference between the pensions paid to his father and mother and that to which they were entitled," beg leave to report:

It appears from the statements of the petition, that the petitioner's parents in their lifetime received a pension for thirteen months' service in the war of the revolution, of $43 33 per annum, which was all the father proved his right to. After the death of both the parents of petitioner, it is claimed that proofs were found which would have established the father's right to a pension of $80 per annum, instead of $43 33, the amount he received. The prayer now is to be allowed, as heirs of John and Mary Moore, deceased, the difference between the pension they received and that to which they were entitled. No proof of the facts alleged, or, indeed, any paper whatever, accompanies the petition, though reference is made to papers, as accompanying, therein.

If the statements were fully and satisfactorily proved, your committee could not regard the case as one justifying special action for the relief of the petitioners.

The case was adjudicated under the law, and the full amount of pension paid to which the parties proved a just claim, up to the date of their deaths, respectively. The laws under which they were respectively pensioned make no provision for children or heirs, except that *arrears* which have accrued between the last semi-annual payment and the death of the pensioner shall be paid to them, or to the administrator. No proofs of service presented after the death of the pensioner and his widow could, under the law, affect the case in the least as the pension is an express bounty to them alone, and is made to cease absolutely in case of the death of both. If the law be so construed as to admit the claim here preferred, all limitations which bar the claims of heirs, in cases even rejected altogether during the lifetime of the soldier and his widow, are at once removed; and the subsequent discovery of proof of service, revives in the heirs all the rights intended by law to be confined to the "surviving soldiers of the revolution, or the widows of such."

The following resolution is submitted:

Resolved, That the prayer of Morin Moore, the petitioner, be rejected.

IN THE SENATE OF THE UNITED STATES.

July 6, 1854.—Ordered to be printed.

Mr. Seward made the following

REPORT.

The Committee on Pensions, to whom was referred the petition of Rebecca P. Stanbury and others, children of Thomas Peters, deceased, praying to be allowed an amount of money equal to the pensions their father and mother would have been entitled to for the services of the former during the revolutionary war, beg leave to report:

That the claim preferred by petitioners has no foundation whatever, either in the spirit of the general laws relating to pensions, or in the practice of the government, in special cases. The whole policy of the pension system is averse to the idea of a hereditary right to *pensions*, beyond the immediate minor heir; and in almost every act, where provision is made for the children of a soldier, that right expires upon their attaining the age of sixteen years. But the several acts, by virtue of which the parents of petitioners, or either of them, could alone have claimed, if living, make no provision whatever for children. It is expressly enacted therein that the right to pension shall, upon the death of a soldier leaving a widow, inure to her, and shall cease upon her death or intermarriage.

If any arrears have accrued between the date of the last semi-annual payment and the death of the pensioner, such arrears must be paid to the widow or heirs. But the language of this provision, as well as the whole tenor of the laws, preclude the idea that there was any intention on the part of Congress to recognize pensions promised the survivors of the revolutionary war, or indeed to any person, invalid or otherwise, as a vested right.

The seven years' half-pay promised the officers of the army of the revolution, as an inducement to remain in the service to the end of the war, was a condition promised previous to the rendition of the service, and is governed by entirely different principles from the subsequent overtures of gratuity to the survivors of that war, to whom no promise of pension or half-pay was made as an inducement to give their services to the country. The recognition of a vested right to the half-pay thus promised does not bear upon the case now under consideration. The father of the petitioners was a private, and died before the enactment of any law under which he could have claimed. The law of 1832 confines its bounty expressly to the "survivors" of the revolution, recognizing no contingent claim, either of the widow or children, except to accrued arrears. The law of 1836 extends the bounty to the

widow, but requires that it shall cease upon her death or intermarriage; and again recognizes no claim of the heirs, except to arrears. The mother of petitioners never made application for the pension to which she would have been entitled; and the committee hold that all right to such pension expired with her. Such has been the understanding of the government in the administration of the pension laws, and impartial justice and good policy demand that this construction be adhered to. A departure from it, as prayed for, would revive and recognize the claims of thousands whose parents died before the enactment of the law relating to this class, or who never made application under them, and would tax the treasury for the benefit of persons never intended to be included within the scope of their provisions. The adoption of the following resolution is recommended:

Resolved, That the prayer of the petitioners be rejected, and they have leave to withdraw the papers in the case.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 340.

IN THE SENATE OF THE UNITED STATES.

July 7, 1854.—Ordered to be printed.

Mr. Pratt made the following

REPORT.

[To accompany Bill S. 436.]

The Select Committee, to whom were referred the memorial of the Mayor and City Counsel of Baltimore, and the petition of the Board of Trade of that city, asking an appropriation by Congress for the improvement of the navigation of the Patapsco river, have had the same under consideration, and now report a bill appropriating the sum of three hundred thousand dollars, to be expended under the direction of the Secretary of War for the object indicated by the memorialists:

Your committee have ascertained that the port of Baltimore is now (by reason of the obstructions proposed to be removed) inaccessible to the largest class of vessels engaged in commerce, and wholly inaccessible to the war steamers of the United States. Your committee are advised that the appropriation provided by this bill will be adequate to remove these obstructions and render the port of Baltimore accessible to vessels of every class. There are many considerations which have induced your committee to favor this appropriation, some of which they propose to bring, very briefly, to the notice of the Senate. The federal government are now deriving from commerce an annual revenue of about sixty millions of dollars, and, in the judgment of your committee, the express power *to regulate* necessarily implies not only the power but the obligation to remove such obstructions to *commerce* as exist in the present case. It would be a singular anomaly to assume that a government possessing the power to regulate commerce, and in fact regulating it in such manner as to derive from it almost its entire revenue, should be deprived of the power of appropriating a part of that revenue to the removal of such natural or artificial obstructions as might destroy or impair it. The State of Maryland was the pioneer in the effort to connect by railroad the great west with the Atlantic seaboard; and the city of Baltimore, by her railroad, now completed to the Ohio river, will, in a few months, have a continuous railroad connection with Cincinnati and St. Louis, whilst she will have by the Baltimore and Susquehanna railroad a direct and continuous railroad connection with Pittsburg. These improvements, when considered in connection with the geographical position of Baltimore, would indicate that city as a natural market for the produce of the sections of country

above referred to; and the fact that Baltimore is much nearer those points than any other sea-port, would clearly indicate that city as a proper point for the distribution of the foreign mails, and consequently as a port from which a line of mail steamers should be established to Europe and South America. It is known to the Senate that vessels of the largest class can be navigated with proportionately less expense, and can consequently carry cargoes upon lower terms than vessels of the smaller size, which merchants are now compelled to employ in the commerce of this port; and it follows that the products of those sections of the Union, having Baltimore as their market, would be benefited by the contemplated improvement to the extent of the difference of freights in vessels of the largest and those of smaller tonage. It is also apparent that without the improvement designed to be effected by this bill, the government cannot use the port of Baltimore for the mail facilities which the central position and railroad connections of Baltimore with the great points of commerce, before indicated, would make economical and convenient.

But considerations of more commanding importance commend this measure to the favor of the Senate. The foreign commerce of the United States, which now exceeds that of any other nation except Great Britain, will force the government to continue the policy adopted at the present session of Congress, of increasing the steam marine to an extent adequate, in some degree, to its protection. The superiority of war vessels propelled by steam, for such purposes, is admitted by all; but the government has been deterred from the general use of this means of national defence by the difficulty of obtaining a constant and economical supply of fuel adapted to the generation of steam—a difficulty which will be entirely surmounted by making the port of Baltimore accessible to those steamers. The federal Executive, appreciating the necessity of increasing this arm of the service, and the consequent necessity of obtaining a supply of fuel best adapted for its use, at an earlier day caused to be made a scientific examination of the many varieties of coal which could be supplied in this country, with the view to decide which could be most advantageously used to generate steam. This experiment resulted in a report giving an analysis of many varieties of coal, and the relative capacity of each, placing the bituminous coal of Maryland above all others for its capacity to generate steam. The conclusions of this report have been generally acquiesced in, and its correctness vindicated, by the concurrent experience of the Cunard and Collins steamers, in both of which the Cumberland coal is believed to be now exclusively used in the passage from New York to Europe. It is estimated that about one million of tons of this coal will be carried by the Baltimore and Ohio railroad, in the present year, to the city of Baltimore.

From the most authentic documents to which your committee have had access, they have no doubt that the bituminous coal-field of Maryland will furnish for centuries an abundant supply. The area of this coal-field is not less than five hundred and fifty square miles; and, by a report of the Messrs. Silliman, made in 1848, one square mile is estimated to contain nine millions of tons, which would supply five hundred tons per day for about fifty years.

Professor Johnson, in 1844, examined the principal varieties of American coals, and assigned to each its appropriate place, in a catalogue prepared by him, and here the Cumberland coal takes the very highest place in the series for its evaporative power. The great desideratum—an abundant supply of *the* coal *ascertained* to be best adapted to the use of our steam marine—has been attained; and it only remains for the government to consider how this supply can be most economically obtained. It is believed that the practice of the government heretofore has been to buy this coal at Baltimore, and then to ship it, at great cost, in small vessels, to their different naval depots, for the use of such of the national vessels as may *start* from them; whilst for the supply of the steamers upon foreign stations, the practice has been to load vessels of the largest class, as small vessels could not carry so bulky an article, except at greatly increased rates.

Such ships cannot now load at the port of Baltimore because of the obstructions proposed to be removed by the appropriation recommended by your committee, and the result to the government is illustrated by certain facts mentioned in a paper transmitted by John C. Brune, Esq., the president of the board of trade of Baltimore. It appears that "during the last summer several large ships loaded at this port with coal for the East India squadron. These ships took in about half of their cargoes at the coal wharf, and afterwards went fifteen miles down the river, where the other half was taken in lighters, at great expense to the government, which must continue to be the case with all fuel carried to our distant squadrons." The port of Baltimore would be accessible in a few days at furthest by any steamer about to start upon foreign service, and your committee will not attempt to estimate the saving which would result to the government by the establishment there of a coal depot, from which such steamers as well as transport ships could be loaded by emptying the coal from the cars into the vessels, instead of the expensive and tedious method now in use. Your committee have no doubt that the saving in freight alone would in a very short time fully pay all the expense of deepening the Patapsco; and in point of economy, therefore, the appropriation is confidently recommended.

There is one other view of this subject suggested by the memorialists, and by the paper from the board of trade, which, in the opinion of your committee, indicates a national necessity for the contemplated improvement. They say, that "by examining a chart of the United States, you will find that from the Chesapeake bay to Pensacola there is not a single harbor where the large class steam frigates can enter, with the exception of Key West, and to that as well as to all other ports the fuel must go from Baltimore, at a great expense of freightage and loss by deterioration."

Sincerely hoping as they do that our country may enjoy the blessings of continued peace, your committee cannot but see in the actual existence of the war in Europe, and the necessary complication of our commercial relations with the belligerent powers, as also in our existing relations with Spain, reasonable grounds to apprehend the possibility of our country's being involved in the calamities of war with some one of the nations of Europe. It will be admitted that any war

in which our country can engage must be chiefly conducted by vessels propelled by steam; and if it be true, as stated by the memorialists, that there is no port south of the capes of the Chesapeake until Pensacola be reached, where the largest class of men-of-war can enter for shelter, repairs, or supplies, whether of men, provisions, or coal, and that an adequate supply of the coal best suited to generate steam can only be procured at Baltimore, it would necessarily follow that the government is imperatively called on by every consideration of public policy to make the port of Baltimore not only accessible to our steam marine, but to render it impervious to the attack of any maritime power. The safety of the port from any naval force which could be brought against it, your committee think, will be fully secured by the completion of Fort Carroll, now being erected upon Sollers' flats.

Entertaining, for the reasons assigned, the opinion that it is as essential to the interest of the country that the harbor of Baltimore should be made accessible to the steam frigates and other war vessels of the United States, as it is to protect that harbor by the fort now being erected, your committee confidently recommend the passage of the bill herewith reported.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 341.

IN THE SENATE OF THE UNITED STATES.

July 7, 1854.—Ordered to be printed.

Mr. Sebastian made the following

REPORT.

(To accompany Bill S. 437.)

The Committee on Indian Affairs, having had under consideration the claim of John Shaw, report:

That in 1828, a special term of the circuit court of the United States was held at Prairie du Chien, by Hon. James Duane Doty, as the additional judge of the Territory of Michigan, for the trial of some Winnebago Indians for the murder of citizens of the United States. Under orders from the War Department, Mr. John Scott was sent a distance of five hundred miles to prosecute the case, and otherwise represent the United States, who found it necessary to procure an interpreter. Several were tried and discharged, who could only interpret the Winnebago language into French; but as it was necessary to get an interpreter who understood the Winnebabo, French, and English languages, the services of Mr. Shaw were obtained, who lived then at St. Louis. He, during the trial, performed that service satisfactorily to the court, and the attornies both for the United States and the Indians. He claims now for his services, and travel and attendance, one thousand dollars. We think it not unreasonable. The judge of the court thinks his services were worth that amount, being the same allowed as extra compensation to the attornies. A special appropriation was made to cover the expenses of the trial, but it appears from the official letter of the Indian office where these claims were audited, that Mr. Shaw has never either been paid or claimed the amount heretofore. The committee, therefore, report a bill.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 342.

IN THE SENATE OF THE UNITED STATES.

July 10, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

[To accompany Bill S. 439.]

The Committee on Private Land Claims, to whom was referred the "memorial of Neal Smith, agent and attorney in fact for the heirs of William Turvin, deceased, praying to enter certain lands belonging to the United States in lieu of lands which the government has disposed of, to which they were entitled," have had the same under consideration, and submit the following report:

It appears that one James Conway, executor of William Turvin, on the 19th June, 1813, filed before the Commissioner of Land Claims, east of Pearl river, a claim in favor of the said Turvin for 960 arpens of land, and after proving title from the Spanish government, he failed to prove inhabitation and cultivation, and the commissioner, therefore, refused to confirm the claim.

The heirs of the said Turvin renewed their claim under the act of Congress approved March 2, 1829, before the register and receiver of the land office of the district of St. Stephens, and in addition to a regular title from the Spanish government, they also provide inhabitation and cultivation, and they recommended the same for confirmation.

It further appears that the land in question was disposed of by the government of the United States, and is now in possession of third parties.

The committee are of opinion that the said heirs of William Turvin, deceased, were justly entitled to the lands so recommended for confirmation, but in consideration that said lands have been disposed of, they have directed me to report a bill authorizing the heirs or legal representatives of said Turvin to locate an equal quantity of land on any of the public lands of the United States, subject to entry at private sale, and to recommend the passage thereof.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 343.

IN THE SENATE OF THE UNITED STATES.

July 10, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

(To accompany Bill S. 370.)

The Committee on Private Land Claims, to whom was referred S. bill No. 370, "A bill to authorize T. H. McManus to enter by pre-emption certain lands in the Greensburg Land District, Louisiana," have had the same under consideration, and submit the following report:

That so far as the committee would be warranted in granting relief in this case, it is believed to be fully provided for under the general pre-emption laws of the United States.

They therefore report back the bill, and recommend that it do not pass.

IN THE SENATE OF THE UNITED STATES.

JULY 10, 1854.—Ordered to be printed.

Mr. MASON made the following

REPORT.

ct Committee appointed under the resolution of the Senate "to take into ration the several resolutions and orders of the Senate, providing for pointment, and prescribing the duties of its officers; to report rules gulations fixing the number of such officers, and other subordinates; ing them; fixing their compensation; prescribing the mode of ap- ent to, and dismissal from, office, and effecting such organization lly as better to insure their responsibility and efficiency;" have had jects thereby committed to them under consideration, and now report:

—As to the office of the secretary of the Senate. By the an- ort of this officer, made at the commencement of the present the persons employed in his office under existing laws and re- s, with the compensation paid to each, are as below:

ollowing persons have been employed, during the fiscal year 30th June, 1853, in the office of the secretary of the Senate, e received the sums opposite their respective names:

I. Machen, principal clerk	$1,800
Hickey, executive clerk	1,800
W. Dickens, clerk	*1,600
McDonald....do	*1,600
Fitzpatrick....do	*1,600
Patton.....do	*1,600
Elliot.....do	*1,600
Price.....do	*1,600
s E. Benson...do	*1,600
Clubb, messenger, $4 per day,	‡1,600
ıge.....do.....4...do	‡1,600
k Conroy..do.....3...do	‖1,314
Rohrer, page, $2 per day	730

by a resolution of the Senate at the last session, each of the as allowed two months additional pay, each of the messengers dred and fifty dollars, and the page two hundred dollars.

e communication of the secretary, addressed to the chairman committee, (annexed to this report,) it will be seen that Mr. nd Mr. Page, rated as messengers, have been actually in per-

ng $100 each, under act of 31st August, 1852; now expired.
ıg $140 each, under same act.
ng $219 under same act.

formance of other duties necessary to the efficient service of his department, and that he requires one additional messenger or page to substitute one of the officers last above named. The committee concur in the suggestion of the secretary, that Mr. Page be added to the clerks, and in his recommendation to assign to his office another page.

The appointments of all employed in this office, as well as power to dismiss them, should remain, as heretofore, with the secretary, who is responsible for the efficient discharge of its duties.

The duties of the several officers in the office of the secretary of the Senate, (except so far as indicated by the designation of the office,) are necessarily to be prescribed by the secretary as heretofore. For the information of the Senate the committee annex to their report paper marked B, showing the present distribution of those duties.

Sergeant-at-arms.—The communication from this officer to the committee shows that there are now employed in his department twenty-three messengers, two mail-boys, two laborers, and ten pages; their names and respective duties are fully therein set forth.

The committee, on consultation with the sergeant-at-arms, believe the service required will be more efficiently performed by a classification, as far as can be effected, of those employed in this department, leaving, however, as heretofore, the distribution and detail of the duties to the discretion of the sergeant at-arms, except so far as the designation of the office would indicate the nature of the service. They do not propose to increase the number in the service of this department except by authorizing the employment of two additional laborers.

They recommend, therefore, that the persons employed in the office of the sergeant-at-arms shall be hereafter as follows:

1 postmaster to the Senate;
1 assistant postmaster and mail-carrier;
2 mail boys;
1 superintendent of the document room;
2 assistants in the document room;
1 superintendent of the folding room;
2 messengers, acting assistant door-keepers;
15 messengers;
1 superintendent in charge of the furnaces pertaining to the Senate:
1 assistant to superintendent of furnaces;
1 laborer in charge of private passage;
2 laborers;
10 pages.

The committee concur entirely in the recommendation of the sergeant-at-arms, that the officers in the employ of the Senate should be permanent.

The Senate is a permanent body, liable to be convoked separately from its co-ordinate branch, and should be always in a state of efficient organization. The only sound objection to such organization would be on the score of expense; and under that recommended by the committee it will be found that this is materially diminished.

They recommend that the compensation to all in the employment of the Senate be fixed and limited, and that no extra allowances, usual at the close of a session, be hereafter made.

In the opinion of the committee, the correct and safe transaction of ne business of the Senate is materially dependant on retaining in its ervice a corps of experienced, well trained, and diligent officers; and his can only be done by security in their respective positions so long s they continue faithful in the discharge of their duties.

Whilst, therefore, they recommend, as in the office of the secretary f the Senate, that the appointment of his subordinates and the power f dismissal should remain with those officers respectively, who must e responsible for all the service committed to their charge, yet they urther recommend that their subordinate officers, during the sessions f the Senate, shall be dismissed only by the Secretary of the Senate nd the sergeant-at-arms, respectively, for reasons to be stated in writing; and such dismissal to be approved by the president of the Senate. n the recess of the Senate, such dismissal, with the reasons therefor, o be reported to the president of the Senate in writing, on the first lay of the next meeting of the Senate thereafter, and then in like manier to be subject to his approval.

In adjusting the salaries, provided for by the resolutions accompanyng this report, the committee have been guided chiefly by the compenation now received by the officers of the Senate, made up of salary, per centage under temporary laws, and extra allowance.

In the office of the secretary of the Senate the aggregate is not increased, whilst in that of the sergeant-at-arms it is diminished by several thousand dollars.

They further recommend, that to the officer charged with the disbursement of funds appropriated to the pay of Senators and expenses of the Senate, there be paid the sum of four hundred dollars per annum.

This office was created by law at the present session, involves an expenditure largely exceeding the sum of four hundred thousand dollars, under the guarantee of bond with security, and the committee are of opinion, amongst other reasons for the allowance, that it is not in the "line of safe precedents" to require gratuitous service of disbursing officers.

They further recommend, that in the appointment of the pages of the Senate, none should be appointed younger than thirteen years of age, or remain in office after the age of seventeen years, or for longer time than two Congresses, or four years, and they should be so classed as that one-half go out of office at the expiration of each Congress.

In selecting the pages, the committee are of opinion, that those only should be appointed whose means are unequal further to educate them at the schools, and having regard for such disability, care should be taken to confine the appointment to youths of good character and intellect.

In view of the joint resolution which has just passed the House of Representatives, adding twenty per cent. to the compensation of all persons employed by either House of Congress, the committee have made the rates of compensation proposed in the accompanying resolution twenty per cent. below what they intend each person to receive. The passing of the joint resolution by the Senate will bring all the rates of compensation to the rates intended by the committee.

Resolved, That the compensation of the officers and persons in the employment of the Senate, from and after the thirtieth day of June, 1853, be as follows:

To the secretary of the Senate, three thousand dollars per annum;

To the officer charged with the disbursements of the Senate, four hundred dollars per annum;

To the principal clerk, and the executive clerk in the office of the secretary of the Senate, each eighteen hundred dollars per annum;

To eight clerks in same office, each fifteen hundred and forty-one dollars and sixty-seven cents per annum;

To the keeper of the stationery, &c., fourteen hundred and sixty dollars per annum;

One messenger, nine hundred dollars per annum;

One messenger, six hundred and twenty-five dollars per annum;

One page, four hundred and sixteen dollars and sixty-seven cents per annum;

To the sergeant-at-arms and doorkeeper, sixteen hundred and sixty-six dollars and sixty-seven cents per annum;

To the assistant doorkeeper, fourteen hundred and sixteen dollars and sixty-seven cents per annum;

And to the persons in the office of the sergeant-at-arms, as follows:

Postmaster to the Senate, fourteen hundred and fifty-eight dollars and thirty-four cents per annum;

Assistant postmaster and mail-carrier, twelve hundred dollars per annum;

Two mail boys, each six hundred and fifty dollars per annum;

Superintendent of document room, twelve hundred and fifty dollars per annum;

Two assistants in document room, each, one thousand dollars per annum;

Superintendent of folding room, twelve hundred and fifty dollars per annum;

Two messengers acting assistant doorkeepers, each, twelve hundred and fifty dollars per annum;

Fifteen messengers, each, nine hundred dollars per annum;

Superintendent in charge of Senate furnaces, nine hundred dollars per annum;

Assistant in charge of furnaces, five hundred dollars per annum:

Laborer in charge of private passage, five hundred dollars per annum;

Two laborers, each, four hundred dollars per annum;

Ten pages, two dollars per day each during the session;

Clerk or secretary to the president of the Senate, fourteen hundred and sixty dollars per annum;

Provided, That the compensation of those officers who were not employed at the commencement of the last fiscal year shall commence with the first day of the present session of Congress: *And provided further*, That in cases where a larger sum than is herein proposed has been paid during the last fiscal year to any person embraced in this resolution the rates herein proposed shall commence with the present fiscal year.

Resolved, That it shall be the duty of the sergeant-at-arms to classify

he pages of the Senate so that at the close of the present and each succeeding Congress one-half the number shall be removed. And in no case shall a page be appointed younger than thirteen years, or remain in office after the age of seventeen years, or for longer time than two Congresses or four years.

Resolved, That the several officers and others in the departments of the secretary of the Senate and of the sergeant-at-arms shall be appointed and removed from office by those officers respectively as heretofore. But when made during the session of the Senate any such removal to be first approved by the president of the Senate, on reasons to be assigned therefor in writing by the officer making the removal; and when in the recess such reasons in writing to be laid before the president of the Senate on the first day of the succeeding session, and to be approved or disapproved by him.

A.

OFFICE OF THE SECRETARY OF THE SENATE,
January 21, 1854.

SIR: In compliance with your request, I have the honor to lay before you the accompanying printed report, (marked A,) showing the names, designation, duties and compensation of all the persons employed in this office.

Until recently, all the clerks, except the principal clerk, received the same compensation; and their duties were so arranged as to equalize their labors. But, when Mr. Hickey was assigned to duty in the legislative sessions of the Senate, his compensation was made equal to that of the principal clerk. The salary of the principal clerk and of the executive clerk are now $1,800 a year, and of the other clerks $1,500 a year, each. These two rates of salary for the clerks in this office were fixed nearly forty years ago. For many years past, an additional allowance, equal to two months' pay to each, has been made by resolutions of the Senate; and, for the last fiscal year, under a provision in an appropriation act of 31st of August, 1852, (which provision has now expired,) all the clerks, except the two highest, received a per centage amounting to $100 a year. The effect of these allowances was to bring the compensation of the principal clerk and executive clerk to $2,100 a year, and of the other clerks to $1,850 a year, up to the 1st July, 1853, a rate of compensation which is believed to be not beyond their services, especially when the present increase in the expenses of living is taken into consideration.

Two of the persons on the list are in an anomalous condition, Mr. Clubb and Mr. Peyton Page. They were appointed as messengers, and are now so designated; but their duties, which have been changed by degrees, are not now such as are implied by that designation; and their compensation is nearly that of clerks. This rate of compensation was allowed to the latter (Mr. Page) by a special resolution of the Senate; and, as it had been provided by law that the other, (Mr. Clubb,) as messenger in the office of secretary of the Senate, should receive as

high a compensation as any other messenger, his compensation thus became equal to that of Mr. Page. As the latter is now almost entirely employed in clerical duties, it might be well to transfer him to the class of clerks; and Mr. Clubb might be designated according to his chief actual duties, which are those of keeper of the stationery. The office of the secretary, which appears to be sufficiently provided with messengers, is in reality deficient in that kind of service, by the almost total withdrawal of these two persons from it. By the proposed change, another messenger or page would become indispensable. The page, as he is still called, (Rohrer,) is well qualified for promotion, and deserves it by his diligence and fidelity; it is therefore submitted that he be made a messenger and that a page be appointed in his place. The promotion of Mr. Page to a clerkship would enable me to add to his duties that of seeing to the distribution of books and documents to senators, other than the current documents, a matter which the office has now no means of properly attending to.

For the further information of the committee, I submit, also, a paper (marked B) showing the particular distribution of duties among all the persons employed in the office.

I have the honor to be, sir, your most obedient servant,

ASBURY DICKINS,
Secretary of the Senate.

To the Hon. JAMES M. MASON,
Chairman Select Committee Senate.

B.

Arrangement of duties in the Office of the Secretary of the Senate of the United States.

The principal clerk (Mr. Machen, salary $1,800 per annum,) will assist the secretary in the legislative sessions of the Senate; take minutes of the proceedings; make out the journal, in which he will be assisted by the second legislative clerk, to whom he will send from time to time extracts from the minutes for his guidance, and when the journal is made out will compare it with his minute-book, to ascertain that everything is correctly entered, in which also he will be assisted by the second legislative clerk; in his minutes he will note all amendments made to bills and joint resolutions, and, when they are to be engrossed, he will send to the first engrossing clerk a note of the amendments, to ensure correctness in the engrossment; when the journal of each day is completed and examined he will hand it to the secretary for his revision previously to the next meeting of the Senate; he will prepare the orders of the day, and attend to the proper arrangement and disposition of the files of bills, resolutions, motions, and reports to be acted on each day, and of the papers belonging to them, of all of which he will have charge; he will supervise the printing of the legislative journal, and examine the proof-sheets, in which he will be assisted by the second legislative clerk; he will note in a book kept for that purpose

all questions of order or of practice decided in the Senate; he will prepare the annual statement of appropriations and of offices created.

The executive clerk (Mr. Hickey, salary $1,800 per annum,) will assist the secretary in the executive session of the Senate; take minutes of the proceedings; make out the journal, and, when verified by a comparison with the minutes, (in which he will be assisted when necessary by one of the engrossing clerks,) hand the same to the secretary for his revision previous to the next meeting of the Senate; file and arrange the executive papers; keep a book of reference to messages, treaties, nominations, and resolutions passed in executive session, in which book he will note the action of the Senate on each; prepare references of executive business to the committees, and have the same sent to the committee rooms in time for the meeting of the committees next morning; prepare daily returns to the President of treaties, nominations, and other subjects definitely acted on, in which he will be assisted, when necessary for the prompt dispatch of business, by the second engrossing clerk; examine the transcript of the executive journal for the President; prepare and send to the printer all documents and other papers relating to executive business ordered to be printed in confidence, and make an entry thereof, and take charge of them when received from the printer, and prepare and place in the hands of the sergeant-at-arms such as are intended for distribution among the members of the Senate; make an index to the executive journal when recorded, and generally have in charge the records, books, and papers relating to the executive business of the Senate.

Mr. Hickey will also attend in the Senate chamber during the legislative sessions as reading clerk; he will note on all papers presented the disposition made of them, and send them from time to time into the office; he will note on bills, resolutions, and motions, all amendments, and, when ordered to be engrossed, send them, with the amendments clearly noted, to the third legislative clerk for endorsement and delivery to the first engrossing clerk.

He will, during the recess of the Senate, continue the compilation ordered by the Senate of the proceedings and documents relating to the establishment of the seat of government.

The first legislative clerk (Mr. T. W. Dickins, salary $1,500 per annum,) will receive, as they are sent from the Senate chamber, messages of the President, reports and other communications from executive officers, resolutions of State legislatures, petitions, and memorials, and reports of committees when not accompanied by bills or joint resolutions; motions and resolutions which have been passed by the Senate, and other papers not belonging to the duties assigned to other clerks; he will endorse on them a brief description of their nature and object, and the action of the Senate upon them, and hand them from time to time as they are endorsed to the second legislative clerk to be entered on the journal, and will enter in the printing book such of them as are ordered to be printed, and when received from the printer endorse them and hand them with the papers to the principal clerk; motions and resolutions he will hand to the second engrossing clerk to be engrossed, and when engrossed will hand them to the secretary for attestation; such of them as are for the President and executive officers

he will enter in a book to be kept for that purpose, and when for executive officers other than the President, he will dispatch them by messenger, and when messages or reports are received in answer, he will enter them in the same book and also the order of the Senate upon them; all papers referred to committees, except those ordered to be printed, he will send to the committee rooms in time for the meeting of the committees the next day, and those which are to be printed he will send as soon as they are received from the printer; he will keep a list of the committees, and notify the chairman of appointments to the same from time to time; he will prepare the instructions to the superintendent of printing and to the binder to the Senate, and others, in relation to the distribution of the documents of the Senate of which the usual number only is ordered; he will make out the index to the legislative journal to be printed with it.

The second legislative clerk (Mr. McDonald, salary $1,500 per annum) will, under the direction of the principal clerk, assist in making out the legislative journal, and for that purpose will receive from him, from time to time in the course of the day, extracts from the minutes showing the proceedings of the Senate, which are to be entered on the journal; he will receive as they are sent from the Senate chamber, credentials of senators, which, when entered on the journal, he will send to the fourth legislative clerk, to be recorded and endorsed, and will also receive from the first and third legislative clerks, respectively, reports and communications from executive officers, resolutions of State legislatures, petitions, memorials, bills, and joint resolutions, and reports of committees, all of which he will enter on the journal according to their several endorsements, and when so entered will return them to the clerks from whom they were received; will prepare the general orders except so far as relates to bills and joint resolutions; he will assist the principal clerk in comparing the journal with the minutes, to ascertain that all the proceedings of the Senate have been correctly entered; and will also assist him in examining the proof sheets of the journal; he will enter in a book to be kept for that purpose all orders for the withdrawal of papers and when and to whom delivered, take a receipt for them and place it on file in lieu of the papers; he will receive and file all copy returned by the printer, and all papers returned by committees, or received from the House at the close of the session, and will collect, arrange, and file all legislative papers then remaining to be filed, and will have the general charge of the legislative files of the Senate.

The *account clerk* (Mr. Fitzpatrick, salary $1,500 per annum) will examine and file all accounts against the Senate; keep and make out accounts of senators; state accounts of the secretary with the United States; prepare abstracts of expenditures for the examination of the Committee on Contingent Expenses; make out requisitions on the treasury; make out the salary accounts; prepare advertisements for contracts; make out contracts; and will attend to all matters relating to the disbursements or accounts of the office. He will superintend the receipt and distribution of books (other than the ordinary documents) printed or purchased for the members of the Senate; enter, in a book

› be kept for that purpose, the names of those entitled, the time when he books are delivered, and preserve evidence of the delivery.

The *first engrossing clerk* (Mr. Patton, salary $1,500 per annum) will ave charge of and assist in engrossing bills and joint resolutions of ıe Senate and amendments to those of the House; will have charge f and assist in enrolling bills and joint resolutions of the Senate; will xamine, with the Committees on Engrossed and Enrolled Bills, those hich he has engrossed and enrolled, and prepare the titles of them ›r those committees; will prepare and engross the messages and enorsements communicating the proceedings of the Senate on bills and esolutions of the House, and engross the reports of committees of onference on the part of the Senate on the disagreeing votes of the wo houses; he will keep a book in which the bills and joint resoluons of the Senate will be entered numerically, the time when enrossed, the time when passed, and the time when enrolled: the entries › be made by the clerk who engrosses or enrolls the bill or resolution, r who affixes to it the date when the same passed the Senate. He vill, after consulting with the second engrossing clerk, make out every ıorning a list of the bills and resolutions which passed the Senate the receding day, which list, after being verified by a comparison with ıe bill-book or with the minutes, he will hand to the secretary, before ıe meeting of the Senate, together with the bills duly prepared for is signature; but if any of the said bills or resolutions shall have een already taken to the House of Representatives, he will ascertain ıe fact, and note the same on the list.

He will receive from the clerk of the House, at the close of each Congress, the engrossed bills and resolutions of the Senate not finally cted on by the House, and the papers belonging to the same; the bills nd resolutions, together with those which passed both Houses, he will ave bound, and he will hand the papers to the second legislative clerk › be filed; and he will collect and return to the House the engrossed ills and resolutions of the House not finally acted on by the Senate, vith the papers belonging to the same, and will make entry thereof in is bill book.

He will make the transcript of the executive journal required for the President.

He will make the index to the executive class of printed documents › be printed with them.

He will prepare the annual report of expenditures from the contingent fund, and the annual report of persons employed in the office, and heir compensation.

The *second engrossing clerk* (Mr. Elliot, salary $1,500 per annum) vill assist in engrossing and enrolling, in examining engrossed and nrolled bills and joint resolutions, and in engrossing messages and eports of committees of conference, as prescribed in the duties of the irst engrossing clerk.

He will engross the resolutions of the Senate.

He will keep a book in which the bills and joint resolutions of the Iouse of Representatives will be entered numerically, the time when assed *the Senate, and, if* amended, the time when the amendments *vere engrossed; the entries* to be made by the clerk who engrosses

the amendments, or who affixes to it the date when the same passed the Senate.

He will assist the executive clerk, when the prompt discharge of his duties may require, in preparing references of nominations and resolutions of the Senate on nominations; and will record the executive journal.

He will make an index to the miscellaneous class of printed documents, and an index to the printed reports of committees, to be printed with them.

The third legislative clerk (Mr. Price, salary $1,500 per annum) will receive, as they are sent from the Senate chamber, bills and joint resolutions of the Senate and of the House, with the papers belonging to them and reports of committees relating to them; he will endorse on those of the Senate their titles and the action of the Senate upon them, and hand them from time to time, as they are endorsed, to the second legislative clerk, to be entered on the journal, and he will receive them again from time to time as they are entered; he will then enter them on the bill-book, prepare those that are to be printed for the printer, and enter them on the printing-book. Bills and resolutions of the House he will enter on the bill-book; and if referred to committees he will prepare copies; and if ordered to be printed will prepare copies for the printer and enter them on the printing-book. All bills and joint resolutions when referred he will send, with the papers belonging to them, to the committee rooms, in time for the meeting of the committees the next morning, unless where they are to be printed, and those he will send as soon as they are received from the printer. Bills and joint resolutions reported, and reports of committees relating to them, he will file when received from the printer and hand to the principal clerk with the papers belonging to them.

He will keep a bill-book in two parts, with a proper index, for bills and joint resolutions of the Senate and those of the House, in which he will enter them daily as they pass through their several stages, including reference to committees, until their approval by the President; and those ordered to be engrossed or passed, after making the proper entries and endorsements thereon, he will send to the first engrossing clerk, who, after engrossment, will send them to the second legislative clerk. He will also keep a complete index of the bills and joint resolutions for the secretary's table, to be so kept that any one may be promptly referred to, and to be kept up daily. Where House bills acted on by the Senate have not been printed he will make copies of them to be preserved on the Senate file of bills. He will prepare so much of the general orders as relates to bills and joint resolutions, and have the general orders printed.

He will prepare the table of bills for the printed appendix to the journal. He will, at the close of the Congress, make an index to the bills and joint resolutions of the Senate.

The fourth legislative clerk (Mr. Benson, salary $1,500 per annum,) will enter, alphabetically, in a book to be kept for the purpose, all messages of the President, reports, and other communications from executive officers, resolutions of State legislatures, petitions and memorials presented, when presented, and by whom, and the disposition

made of them. He will, also, enter such of them as are referred, together with all bills and joint resolutions referred, and such motions and resolutions that have passed the Senate, as are for committees, on the reference book, and when reported on make an entry showing the nature of the report.

He will enter, daily, in the dockets of the several committees, the subjects referred to them, and send them to the committee rooms in time for the meeting of the committees the next morning.

He will record and endorse credentials of senators, and hand them to the second legislative clerk, to be placed on file.

He will also record the reports of committees not printed, and make an index of them.

The foregoing designation of particular duties will necessarily yield to any urgent occasion, when an unusual pressure of business on any one will require the co-operation of any other gentleman in the office.

It will be expected of each gentleman in the office, whenever he is requested by a member of the Senate to give him such assistance in any matter connected with the business of Congress, as he can render consistently with the prompt discharge of his own specific duties.

The usual hours of business will be from 9 to 3 o'clock, and until such later hour as the Senate may remain in session, or as the business may require; during which time it is expected that the gentlemen of the office will be in attendance. It is also expected that the business of each day will be dispatched during the day, so as to prevent accumulation or delay.

In this arrangement of duties the secretary desires, while providing for the prompt dispatch of the business of the office, to equalize, as nearly as may be, the labors of the several gentlemen employed. If experience should suggest any change for the better accomplishment of these objects it will be made.

When subjects which had been referred to committees are reported back, the clerk to whose business the report belongs will enter in the reference book whether the papers referred are returned, and have enquiry made of the committee for any which are not returned.

The *first messenger*, (Mr. Clubb, $4 per day.) His chief duty will be to have the care of the stationery, and to attend to its distribution agreeably to the directions of the secretary; and he will enter in a book, to be kept for that purpose, all articles received and delivered; he will have the care of the reserved documents; he will, each morning before the meeting of the Senate, see that the senators' tables are properly supplied with stationery; and will, after each day's adjournment, receive the pens from the Senate chamber to be mended; he will be assisted by the page.

The *second messenger*, (Mr. Page, $4 per day,) will receive from the second legislative clerk motions and resolutions which have been submitted; will enter them at large on the journal, and endorse them to be placed on the orders; and also messages of the President, and the yeas and nays, which he will enter at large on the journal; record all accounts against the Senate, and accounts of the secretary with the United States; record requisitions on the treasury; he will attend to orders for newspapers for members of the Senate, and make the necessary entries

of the same; he will record the letters in the letter book, and keep an index to the printed bills and documents of both houses of Congress; he will, every day after the adjournment, and before the meeting next morning, collect the books, documents, and papers belonging to the office which may be in the Senate chamber, and restore them to their proper places, and will, from time to time, do the same with those which may be in the committee rooms.

The *third messenger*, (Mr. Conroy, $3 per day,) will make the fires, sweep and dust the rooms, furniture, and books; he will bring and carry the office mails, and will attend to all the outdoor messages, for which purpose he will be allowed a horse, and will also be allowed a carryall during the session, and so long before and after as may be necessary; he will perform such other duties as are appropriate to his office, and will attend in the office when not on duty elsewhere.

The *page*, (William H. Rohrer, $2 per day,) will deliver messages; will perform such services as he may be directed by the gentlemen in the office; he will receive from the printer and have the care of the current bills and documents received for the office, and will keep two files of them—one for the office, the other for the secretary's table in the Senate chamber; he will file and preserve the newspapers; will assist in taking papers from the files when they are wanted, and in restoring them; he will, before the hour of meeting each day, take from the office to the secretary's table in the Senate chamber, the minute book, order book, files of bills, and other papers, and will take them back when the Senate adjourns; he will assist Mr. Clubb in making and mending pens, and will always be in attendance in the office when not on duty elsewhere.

One of the messengers will be always in attendance when any of the gentlemen are in the office, and will keep the doors locked of those rooms which are not so occupied. The messenger last in the office will see that it is properly locked up and the fires all safe.

C.

WASHINGTON CITY, *January* 13, 1854.

SIR: In compliance with the request in your letter of the 11th instant, I have the honor to inform you that when I came into office, March 17, 1853, I found in the service of the Senate twenty-one messengers, two boys attending mail carriers, one laborer, and ten pages, as will appear by the report of the Committee on Retrenchment, made March 3, 1853, which shows the authority under which they had been appointed respectively; a copy of which report is herewith enclosed. To that number there have been added, by transfer from the Secretary of the Senate, under whom they had been previously employed, one messenger and one laborer, and by resolution of the Senate of the 20th December, 1853, one messenger, making at this time, twenty-three messengers, two boys attending the mail carriers, and two laborers. All of these, as will appear from the list, have been re-appointed and appointed by me, in pursuance of the resolution of the Senate of April

9, 1853. The report of the committee referred to, shows that the number of pages employed at that time was 13. I have appointed of that class but 10.

The following is the names, duties, and compensation of messengers; boys attending mail carries, and pages; the age at which the latter are appointed and superseded, to wit:

John M. Jamison, messenger, acting postmaster; pay $3 per day, yearly, and extra allowance, $350.

James B. Smallwood, messenger, assistant in the post office, has charge of one of the mail wagons, receiving mails at the city post office, taking it to the Senate and distributing from thence to Senators, at their residences, three or four times a day, (including night,) going throughout the city and to Georgetown; his pay, $3 per day, yearly, and extra allowance of $350.

Malcom Wallingsford, mail boy with Smallwood in the wagon, aiding in the delivery of the mails, pay $2 per day, yearly, and extra, $200.

Benjamin Owens, messenger, has charge of one of the mail wagons, receives the mails at city post office, takes it to Senate, distributes it and delivers the same, including stationery, books, &c., at the residence of senators, three and four times in each twenty-four hours; paid $3 per day during the session, and fourteen days before and after the session, and extra allowance, $350.

Martin Latrute, mail boy with Owens, aiding in delivering the mails, &c.; pay $2 per day during the session, and fourteen days before and after, and extra allowance of $200.

M. Titcomb, messenger, in charge of the document room, and all the various duties appertaining to this room; pay $3 per day, yearly, and extra allowance of $250.

Lewis Cass Forsyth and B. L. Bogan, assistants in document room, and other duties; each $3 per day during the session, and fourteen days before and after; each extra allowance of $250.

Michael Dooley, messenger, principal in charge of the folding room. To receive and keep account of all extra documents, have them folded and sent to senators during the session and recess, also have speeches folded and sent to senators, and various other duties; pay $3 per day, yearly, and extra allowance of $250.

Isaac Bassett, messenger, in charge of the Vice-President's room; assists at centre door of Senate chamber; pay $3 per day, yearly, and extra allowance of $250.

Charles S. Jones, messenger, in charge of centre door of Senate chamber and various other duties; pay $3 per day, yearly, and extra allowance, $250.

James F. Morton, messenger, in charge of furnaces to heat the passages to the Senate, receives the coal and wood for use of Senate, as delivered; his pay $3 per day, yearly, and extra allowance, $250.

Richard Young, Wm. Johnston, Alexander Dodge, Thomas Clark, I. G. Schott, messengers.—These persons are employed folding documents, speeches, &c.; attending wagon engaged in delivering documents, speeches, &c., to senators; also moving booxes and books for *senators; going to bank, to* departments, carrying letters, visiting cards, *and attending to various* messages of senators. Their pay $3 per day

each, during the session, and fourteen days before and after; extra allowance to each $250.

Michael Larner, messenger, has charge of six committee rooms, and folds. Pay $3 per day during the session, fourteen days before and after; extra, $250.

Joseph Hedrick, messenger, has charge of reporters' gallery; cleans half Senate chamber and Judiciary Committee room, and folds. Pay. $3 per day during the session, and fourteen days before and after, and extra $250.

James Dobbyn, messenger, has charge of four committee rooms, folds, goes to the departments, &c., and various duties. Pay, $3 per day during the session, and fourteen days before and after; extra allowance $250.

Thomas Peters, messenger, has charge of five committee-rooms and folds. Pay, $3 per day during the session, and fourteen days before and after, and extra $250.

Felix D. Queen, messenger, has charge of the south door of the Senate chamber, cleans half the Senate chamber, and takes care of the Finance Committee room. Pay, $3 per day during the session, fourteen days before and after; extra allowance of $250.

William M. Mann, messenger, has charge of centre door of ladies' gallery, folds, and other duties. Pay, $3 per day during the session, and fourteen days before and after; extra allowance $250.

Thomas Wallace, messenger, has charge of the north door of ladies' gallery, folds, &c. Pay, $3 per day during the session, and fourteen days before and after; extra $250.

Baker Jameson, messenger, has charge of the north door of the Senate chamber, carries letters, &c. Pay, $3 per day during the session, and fourteen days before and after, and extra allowance $250.

Laborer has charge of a steam furnace to warm the library, keep clean the passages to the Senate, carry wood to committee-rooms. Pay, $2 50 per day, yearly, and extra allowance of $200.

Jacob Dodson, (colored,) laborer, attends to water closet and carries wood. Pay, $2 during the session, and fourteen days before and after; during recess $1 50; extra allowance of $200.

George S. Bright, Samuel S. Smoot, John M. Kavenaugh, Horatio A. Ragan, Wm. W. Wirt, Folit Whitney, Lewis W. Dorsey, A. P. Gorman, C. Hutchens, Wm. Taylor, ten pages.—Pay of each $2 per day during the session, and extra allowance $200 to each. To attend to the calls and wait on senators; have generally, as I am informed, been appointed about the age of thirteen, and superseded at sixteen.

There has been for years, and at this time, employed, carrying the mails from the city post office to the Senate, and there distributed and sent to senators at their residences throughout Washington and Georgetown, two horses and two wagons or carryalls; stationery, books, &c., are also conveyed in these wagons. One wagon and horse is attached to the folding room, to carry heavy bags of documents, large documents, books, &c., to senators; also removing boxes, &c., for senators. Two saddle horses are employed in conveying, by the messengers, letters, messages, &c., to the departments, and elsewhere. These horses, wagons, carryalls, &c., are purchased, owned, feed, and all other ex-

penses attending them paid by the sergeant-at-arms of the Senate. He is paid for each horse and wagon $2 per day, and the saddle horses $1 50 each during the session, and five days before and after; during the recess two horses and wagons have been paid—last recess but one was allowed.

In your letter you say: "4th. The committee will be obliged by any suggestions of the sergeant-at-arms as to the future organization of those in the service of his department."

In answer, I respectfully say to the committee, the number of messengers employed at this time is amply sufficient for the performance of all the duties at present pertaining to this department. I would respectfully recommend they be paid an annual salary, graduated by the character of the duties and qualifications required for the respective situations, and without extra allowance.

The pages now employed (ten) are quite sufficient at this time. They are more fully compensated at the present pay, taking into consideration their age and duties, than any other class of employés in this department. They have usually been appointed at about thirteen years of age, and superseded at sixteen. I would suggest that two sessions should, as a general rule, be the full time a page should remain, and sixteen the greatest age. In the appointments, a preference, all things considered, to the children of poor widows, or other worthy persons, whose claims and pecuniary circumstances entitle them to consideration.

One more laborer, at $1 50 per day, is all the additional employé at this time required.

No change is required in the present organization of the department under the sergeant-at-arms. Efficiency on the part of those employed is all that is needed. The various and changeable duties required to be performed by a part of the messengers and others requires discretion and judgment on the part of the sergeant-at-arms. Permit me to ask the committee to send for those messengers whose duties, responsibility, and qualifications are the most important, to give such additional information as they may wish, and more in detail.

It will give me pleasure to communicate with you or the committee at any time on the subjects referred to the committee.

I have the honor to be, sir, your obedient servant,

D. R. McNAIR,
Sergeant-at-arms, Senate U. S.

Hon. JAMES M. MASON,
Chairman of the Select Committee to consider and report on the organization of the officers of the Senate.

C.—Continued.

The following statement exhibits the average annual compensation received by each person employed under the Sergeant-at-arms of the United States Senate, (distinguishing between those employed by the year and those for the session only,) during the two years commencing with the last, and ending with the beginning of the present session of Congress.

Names and offices.	Time employed.	Rate of compensation.	Amount of compensation.	Additional per centage.	Extra compensation.	Total.	Remarks.
Employed the whole year.							
J. M. Jameson, messenger, acting postmaster	365 days	$3 00 per day	$1,095 00	$109 50	$350 00	$1,554 50	Postmaster, $1,750.
J. B. Smallwood,* messenger, assistant postmaster	365..do	3 00...do	1,095 00	109 50	350 00	1,554 50	Assis't postmaster, $1,500.
M. Dooley, messenger, head of folding room	365..do	3 00...do	1,095 00	109 50	250 00	1,454 50	Do do.
M. Titcomb,* messenger, head of document room	365..do	3 00...do	1,095 00	109 50	250 00	1,454 50	Do do.
J. Bassett, C. S. Jones, J. F. Morton, messengers, each	365..do	3 00...do	1,095 00	109 50	250 00	1,454 50	Do do.
M. Wallingsford,* boy attending mail carrier	365..do	2 00...do	730 00	73 00	200 00	1,003 00	$1,000.
W. H. H. St. John,* laborer	365..do	2 50...do	912 50	91 25	200 00	1,203 25	600, and one more laborer.
Jacob Dodson (colored)	201..do 164..do	2 00...do 1 50...do	648 00	64 80	200 00	912 80	600.
Employed for the session and 14 days, before and after. Average of two sessions is the days stated.							
R. Young, M. Larner, J. Hedrick, Wm. Johnston, J. Dobbyn, T. Clark, B. Owens, J. G. Schott, T. Peters, F. D. Queen, L. C. Forsyth, Alex. Dodge, Thos. Wallace, Wm. M. Mann,* B. L. Bogan,* Baker Jameson,* messengers, each	252 days	3 00 per day	756 00	75 60	250 00	1,081 50	$1,000.
Martin Latrulte, boy attending mail carrier	252..do	2 00...do	504 00	50 40	200 00	754 40	1,000.

Employed the session only. The average of two sessions is the days stated.							
George S. Bright, Samuel S. Smoot, J. M. Kavenaugh, H. A. Ragan, Wm. W. Wirt, Folit Whitney, Lewis W. Dorsey,* A. P. Gorman,* C. Hutchens,* and William Taylor*—10 pages, each	201 days	$2 00 per day.	$402 00	.....	$200 00	$602 00	

Those marked thus (*) did not actually receive the amounts opposite their names; but those sums, paid to them and their predecessors together, shows the average annual cost of the offices now held by them respectively.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 345.

IN THE SENATE OF THE UNITED STATES.

July 10, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 442.]

The Committee on Foreign Relations, to whom were referred the petitions of William K. Jennings and Aphia Jennings, Henry A. Wise, Ann Robinson, Edward Rudd, and Mary Martin, severally asking compensation for slaves taken and carried away by the British during the war of 1812, *out of the fund provided for under the first article of the treaty of Ghent, having had the same under consideration, respectfully report:*

That, from the testimony accompanying the petition of William K. Jennings and Aphia Jennings, it appears that, some time during the late war with Great Britain, while the enemy's fleet was lying in the Chesapeake bay, a negro man, Sam, aged about twenty-one years, the property of William Bean, the father of the petitioner, Aphia Jennings, and a negro woman, Easter, the property of Sarah Almond, escaped from the possession of their said owners, in the county of Elizabeth city, in the State of Virginia, and were carried off by the said fleet, and were never afterwards recovered. That the said Sarah Almond was the sister of said William Bean, and died intestate and without issue in his life-time, leaving him her only heir-at-law. That the said William Bean has since died, leaving his daughter, Aphia Jennings, his only heir-at-law; and, further, that the belief that the fund provided for such cases had all been exhausted, has hitherto prevented an application for relief in this case.

In the case of Henry A. Wise, it is shown by the evidence filed that, in the fall of 1814, a negro man, Nelson, aged about nineteen years, previously allotted to the petitioner in the division of his father's estate, ran away to the British fleet, then lying near Tangier island, in the Chesapeake bay, and was carried away on board of the Dragon, 74, and in the latter part of January, 1815, landed on Cumberland island, on the southeastern coast of Georgia, placed in one of the colored regiments, and never returned to his owner. As a reason for the delay in presenting this claim, the petitioner states that he was but eight years of age at the time of the escape of said slave; that his first guardian, John Cropper, died in the year 1821, before any distribution of pay for deported slaves was made by the commissioners under *the treaty of Ghent;* and that his second guardian, John Custis,

was not informed of the loss of said slave until it was too late to have it acted upon by the commissioners.

In the case of Ann Robinson, it is shown by the evidence that, on the day of the memorable action at Hampton, Virginia, in June 1813, a negro man, Hampton, the property of the petitioner's husband, Henry Robinson, was forcibly taken from the possession of said Henry Robinson, in the county of Elizabeth city, Virginia, and carried on board of the British ships then lying in Hampton roads, and has never been returned. That, under the will of her said husband, Henry Robinson, (a copy of which is filed with the petition,) she is entitled as residuary legatee to whatever compensation may be allowed for said slave. And the petitioner further states that she was not aware until recently that any provision had ever been made for the payment of such claims.

In the case of Edward Rudd, the testimony shows that the petitioner is the son and heir of Edward Rudd, deceased, late of Elizabeth city county, Virginia. That some time during the late war with Great Britain, while the enemy's ships were lying in Hampton roads, six slaves—a negro man, Stepney, a negro woman, Crinner, and four children—were taken from the possession of the petitioner's father, and carried off by the British, and have never been returned.

In the case of Mary Martin, it appears from the testimony that in the year 1813, during the late war with Great Britain, a negro man named Ned, the property of her former husband, Robert Lindsay, was captured by the enemy and carried away from the possession of his owner, then residing in Charleston, South Carolina, and never afterwards recovered.

It appears from Ex. Doc. No. 122, accompanying a letter from the President of the United States to the House of Representatives, dated March 8, 1826, that the average value of the slaves taken and carried away by the British from the State of Virginia, as agreed upon and fixed by the commission appointed under the award of the emperor of Russia, was $280 each, and those taken from the State of South Carolina at $390 each. It further appears, from a certificate of the Register of the Treasury, dated February 26, 1852, "that the balance unpaid of the fund received from Great Britain under the first article of the treaty of Ghent, amounts to $4,112 89," and upon recent inquiry at the Treasury Department, the committee have ascertained that that amount still remains unexpended.

Balance in the treasury of the fund received from Great Britain as indemnity for slaves taken and carried away by the British, in the war of 1812, per register's certificate		$4,112 89
Of which this bill provides the following payments, viz:		
To William K. Jennings and wife, for four slaves at $280	$1,120	
To Henry A. Wise, for one slave	280	
To Ann Robinson, for one slave	280	
To Edward Rudd, for six slaves, at $280	1,680	
To Robert Lindsay's representative, for one slave	390	
		3,750 00
Leaving balance of the fund still remaining		$362 89

From two several letters emanating from the Department of State, one dated February 24, 1852, and the other June 26, 1854, it appears that none of the above named petitioners have ever received any compensation for the slaves taken and carried away as above stated.

Your committee report a bill in conformity with the above state of the case, and recommend its passage.

STANFORD LIBRARIES

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 346.

IN THE SENATE OF THE UNITED STATES.

July 10, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

[To accompany Bill S. 270.]

The Committee on Private Land Claims, to which was referred S. bill No. 270, "A bill for the relief of John Boyd," have had the same under consideration, and submit the following report:

The bill now referred to the committee is a copy of a bill reported rom the Committee on Private Land Claims, by Mr. Downs, in the first ession of the thirty-second Congress; accompanying the bill was a reort, in which it is said "the committee are of opinion that the petitioner as an equitable claim to a pre-emption for six hundred and forty acres f land." From this opinion your committee must dissent. No equity an arise unless it proceed from a legal right. In no case, under the aw, can any one person pre-empt more than one hundred and sixty cres; hence no equitable claim can arise to more than one hundred nd sixty acres. If the reverse be true, then equity, instead of assistng, comes in direct conflict with the law. They therefore report back he bill, and recommend that it do not pass.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 347.

IN THE SENATE OF THE UNITED STATES.

July 10, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 441.]

The Committee on Foreign Relations, to whom was referred the petition of Lieutenant William D. Porter, of the United States navy, praying that he may be reimbursed for expenses incurred by him in bringing to this country Amin Bey, of the Turkish navy, in the year 1850, *have had the same under consideration, and now report:*

That after a careful examination of the case, in connection with the report on it, made by the same committee on the 26th of February, 1852, they fully concur in and adopt the same, and report a bill in accordance therewith.

In Senate of the United States.—February 26, 1852.

The Committee on Foreign Relations, to whom was referred the petition of Lieutenant W. D. Porter, of the navy of the United States, praying that he may be reimbursed for expenses iucurred by him in bringing to this country Amin Bey, of the Turkish navy, in the year 1850, *have had the same under consideration, and respectfully report:*

From the petition, and the documents accompanying it, it is shown that Lieutenant Porter, then at Genoa, in the command of the United States storeship "Erie," and about to return home, received a letter from the Hon. George P. Marsh, minister resident of the United States at Constantinople, dated the 20th of May, 1850, requesting Lieutenant Porter to receive Amin Bey and his attendants on board his ship, and to bring them to the United States; in which letter the minister says that the visit was made on the suggestion of the American legation, and under the proffer of a free passage for Amin Bey and his attendants, in any public ship of the United States about to return home; and further, that he doubts not the "government will reimburse you for any expense to which you may be subjected by affording him a passage."

In compliance with this request, Amin Bey, with his attendants, including Mr. John P. Brown, as dragoman, were received on board

the Erie, at Genoa, on the 5th of July, and landed at New York on the 13th of September, 1850.

The mission was treated as one of sufficient consequence to the United States, by our minister at the Turkish court, to warrant the responsibility he assumed in giving the invitation, and tendering a passage in a public ship; a step fully justified by Congress, in the appropriation, subsequently, of a large sum of money to defray the expenses of Amin Bey while in this country.

The committee are satisfied, from their inquiries, that the peculiar national habits of this guest of the ship Erie must have subjected its commander to expenses exceeding those of an ordinary guest, having a like retinue; and, although far the larger part of the expenditures made are sustained by vouchers, yet they deem it just to admit some of the charges for which, under the circumstances, strict vouchers could not be obtained. The amount claimed by Lieutenant Porter for his actual expenses thus incurred is the sum of $1,848 61, and they report a bill for payment thereof.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 348.

IN THE SENATE OF THE UNITED STATES.

July 11, 1854.—Ordered to be printed.

Mr. Chase made the following

REPORT.

The Committee on Patents, to whom was referred the petition of Adolphus Allen, praying for an extension of a patent, beg leave to report:

That the only document submitted to them in support of the petitioner's prayer is his own affidavit. Taking this affidavit as true—and the committee see no reason to doubt the accuracy of its statements—it appears that a patent was granted to the petitioner for a water wheel, on the 8th of February, 1823. Efforts were made, without much success, to introduce it into use until the expiration of the patent in 1837. Since that time it has been generally introduced, and proves to be a valuable invention.

It does not appear that the inventor has ever received any adequate compensation for his invention, but, on the contrary, that he has sustained a positive loss.

Under these circumstances, the committee would beg leave to recommend some relief; but the omission, on the part of the inventor, to take the proper steps, under the law, to secure a renewal, and the implied dedication of the invention to public use, in consequence of which the wheel has, according to his own statement, been manufactured and used by many, preclude the petitioner from the relief which he seeks.

The committee, therefore, ask to be discharged.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 349.

IN THE SENATE OF THE UNITED STATES.

July 12, 1854.—Ordered to be printed.

Mr. Benjamin made the following

REPORT

[To accompany bill S. 443.]

The Committee on Private Land Claims, to whom was referred Senate bill (No. 443,) "A bill for the relief of A. G. Penn," have had the same under consideration, and submit the following report:

It appears that on the 9th day of May, 1848, one Jacob J. Ott filed before the register of the proper land office his intention to claim the southwest quarter of section 23, township 6 south, of range 10 east, containing one hundred and sixty acres, as a pre-emption right under the act of Congress, approved September 4, 1841. That some time after the filing of said intention, the said Ott sold his pre-emption right to Abraham Penn, who could not succeed to the rights of a pre-emptor, in consequence of his being at the time of his application the owner and possessor of over three hundred and twenty acres of land; he therefore abandoned the said lands, and transferred whatever rights he may have had to the said A. G. Penn, who has taken possession of the said lands, and made considerable additional improvements thereon.

As the bill fully protects any adverse claimant, the committee are of opinion that said bill should pass, inasmuch as no injustice will be done thereby to the government, and it will greatly enure to the benefit of a private citizen, who has expended his money and placed valuable and permanent improvements thereon.

The committee have therefore directed me to report back the bill, and recommend its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 350.

IN THE SENATE OF THE UNITED STATES.

July 12, 1854.—Ordered to be printed.

Mr. Brodhead made the following

REPORT.

[To accompany Bill S. No. 444.]

The Committee on Claims, to which was referred the memorial of Nancy Holkar, widow and administratrix of the Hon. John Holkar, late of Clarke county, Virginia, deceased, beg leave to report:

That they have carefully examined the claim of the memorialist, and find by reference to the revolutionary records, in the office of the register of the treasury, that the Hon. John Holkar, the husband of the memorialist, had been engaged, during the early part of the revolutionary war, in furnishing Congress with flour and other provisions necessary for the support of the army; that the accounts between him and the government having been adjusted, there was either due to him for provisions furnished, or were in his hands on the 15th day of April, 1780, in the currency of Congress of its "old emissions," the sum of $443,047, (four hundred and forty-three thousand and forty-seven dollars,) and that on the same day this sum was entered to his credit on the books of the treasury, by Michael Hillegas, Treasurer of the United States, to await, as stated in the entry, "the determination of the propriety of this credit in continental currency, and at what rate of exchange."

At a later period, namely on the ———, Congress having fixed the rate of exchange between continental currency of various issues and gold and silver, "the propriety of the credit was determined" by the treasurer, and the following entry made in ledger B, folio 773:

"August 25th, 1787, by Michael Hillegas, Treasurer, amount received of him (John Holkar,) 15th April, 1780, $443,047."

Thus, from the books of the treasury, it appears that the amount due to John Holkar, on the 15th day of April, 1780, was $443,047, and that on the 25th day of August, 1787, his account was transferred to the ledger, and the above-mentioned sum placed finally to his credit; and the register of the treasury certifies, that the above sum having been "entered to the credit of the said Holkar, in ledger B, folio 773, remains to his credit, there being no amount entered to his debit."

The claimant in her memorial speaks of the amount due to her husband as a loan. But the committee see nothing to induce them to believe that the money was received by Congress either as a loan or on any specific contract which would entitle her to receive more th

the current worth of continental money at the time it was received at the treasury and placed to her husband's credit.

By reference to the journals of the old Congress, (vol. 3, page 473,) it appears that in 1780, at the time the above-named sum was credited to John Holkar, on the books of the treasury, continental money was worth in gold or silver but two and a half per cent., or twenty-five dollars per thousand. At this rate Congress was indebted to Mr. Holkar on the 15th day of April, 1780, according to the certificate of the register of the treasury, based on the resolution of Congress, before referred to, in the sum of $11,076 18; for the payment of which the committee herewith report a bill, authorizing said amount to be paid, without interest. The reason for the delay in prosecuting the claim is stated in a communication from Holkar Hughes.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 351.

IN THE SENATE OF THE UNITED STATES.

July 12, 1854.—Ordered to be printed.

Mr. Geyer submitted the following

REPORT.

(To accompany Bill S. 445.)

The Committee on the Judiciary, to whom was referred the memorial of James M. Carlisle and Walter S. Cox, administrators with the will annexed, and the petition of Madelena Van Ness, widow of Cornelius P. Van Ness, deceased, report:

That it appears that between the 1st of February, 1813, and the 27th of August, 1814, certain goods were imported into the district of Vermont in violation of the laws of the United States, and thereby became forfeited, and were seized and libelled by Cornelius P. Van Ness, then collector of the customs for said district. By an order of the district court of the United States for the district of Vermont, said goods were delivered to the claimants on bonds being given in conformity with the provisions of the 89th section of the act of the 2d of March, 1799.

During the pendency of the suits, the Secretary of the Treasury remitted the forfeitures on the payment of costs and the duties which would have been payable on the goods if legally imported. The claimants paid the sum of $31,527 94 as duties, and $4,825 91 for interest, amounting to the aggregate sum of $36,353 85, which was received and paid into the treasury of the United States.

In February, 1846, a petition of Cornelius P. Van Ness was presented to the Senate, in which the petitioner, on the above state of facts, claimed a moiety of the sum paid into the treasury on account of the goods which had been seized and libelled by him, on the ground that the reservation in the remission of forfeitures could not be considered as duties, but must be regarded as part of the forfeiture, and distributable agreeable to the provisions of the 91st section of the act of the 2d of March, 1799, in like manner as if the whole forfeiture had been exacted.

In support of his claim the petitioner relies on the case of McLane against the United States, reported in the sixth volume of Peters' Reports, (page 404,) decided while he was abroad in the service of the United States, and which, he states, was unknown to him until his return in 1839. He says that upon being informed of that decision, he would at once have presented his claim, "had he not then had unset-

tled accounts with the government, which he did not wish to mix u with any other, and which he was determined honorably to close. "That soon after the final close of those accounts, and when he w about to bring forward the matter, he was appointed collector of t customs for the port of New York, in which office he served about a year, ending on the first day of July," (1845.)

While the claim was pending before the Committee on the Judicia of the Senate the petitioner departed this life, and thereupon the a ministrators with the will annexed presented their memorial, referri to the petition of the testator, and the accompanying documents, the nature and evidence of the claim, and praying a decision there They state that their testator "left little personal estate besides t aforesaid claim; that he left debts which can only be satisfied out the avails thereof; and that he has left a widow who will be depende on the same for her future comfort and maintenance."

The petitioner, Madalena Van Ness, the widow of Cornelius P. V Ness, refers to the petition of her late husband in his lifetime and t memorial of the administrators before mentioned, and prays that wh ever amount may be found due her late husband, or whatever rel Congress may allow, may be paid to her, and not to the administrato She represents that she is without means, is entirely dependent on l friends for support.

Upon the state of facts, presented by the petitions and the acco panying documents, the committee are of opinion, that the petition are not legally entitled to any portion of the money collected and p into the Treasury as duties in the cases mentioned in the petiti Although a majority regard the case of McLane *vs.* The United Sta as offering the proposition that whatever was required to be paid the remission of the forfeiture of goods imported in violation of laws of the United States, (although reserved as duties,) is reserved well for the seizing officer as for the government, and as distributa accordingly. In the opinion of the committee, such officer must as his claim before or at the time the money is paid into the treasury at least within a reasonable time thereafter, and if he neglects so to the United States are under no obligation to recognize his claim.

In the case under consideration, Mr. Van Ness, who is presume have had notice of the proceedings before the judge preparatory to application to the Secretary to remit the forfeitures, entered no protest made no objections, but acquiesced in the remission for a period of al thirty years. In the mean time he rendered and settled his acco took bonds for the duties in pursuance of the decision of the Secre of the Treasury in remitting the forfeitures, collected and paid amount into the treasury after deducting the ordinary commi allowed on all duties collected; making no other claim. Thus ac with a full knowledge of all the facts, (though under a mistake o law,) he had not, at the time he presented his claim, any legal rig any portion of the money paid into the treasury as duties.

It is the opinion of the committee, however, that in considerati the services rendered by Mr. Van Ness, at his own peril, and for w he has not been rewarded as he would have been, if he had not, u

sapprehension of his rights, failed to assert his claim, some relief
ıt to be granted to his widow, now a petitioner, who, it appears,
left on the death of her husband in destitute circumstances.
hey recommend that there be granted to her the sum of nine thou-
l dollars, which is less than half the amount paid into the Treasury
hich her husband would have been entitled had he duly asserted
laim, and report a bill accordingly.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 352.

IN THE SENATE OF THE UNITED STATES.

July 13, 1854.—Ordered to be printed.

Mr. Allen made the following

REPORT.

(To accompany Bill S. 447.)

The Committee on Pensions to whom was recommitted their report and the papers in the case of Patrick C. Miles, submit the following report:

That under a misapprehension of the rank of the petitioner, and the circumstances of the case, they reported, on the 21st of June last, adversely to increasing the pension allowed him by the bureau. But upon a re-examination of the facts, and additional information furnished them, they are now led to regard the case as a highly meritorious one, and deserving of their favorable action.

Mr. Miles served in the army of the United States seven years, and for good conduct was promoted to the rank of duty sergeant of his company, (K of the first regiment of infantry.) At the storming of Monterey his company was ordered to the assault, and while advancing, exposed to the fire of the enemy in front and on the right and left, the orderly was disabled by a spent ball, and Sergeant Miles, taking his place, gallantly led on to the attack. While advancing at a charge he was struck by a cannon ball, which carried away and shattered his right leg. No notice being taken of the wounded at the time, he lay as he fell for about an hour, endeavoring to staunch the blood from his wound with his cravat, and, while in this situation, a piece of shell from a bomb which bursted within a few feet of him struck him in the neck, inflicting a severe wound upon the muscles and tendons, and partially disabling his right arm, the use of which he has never fully recovered.

Upon being carried to the rear he suffered amputation of his leg, and upon his recovery was honorably discharged. With his papers are letters from Brevet Lieutenant Colonel Abercrombie, who was captain of company K, but commanding battalion at the storming of Monterey, and from Brevet Captain Hamilton, who was then first lieutenant of the company, and both of whom have since been brevetted for their gallantry. They pay Sergeant Miles the highest compliment for his general good conduct, and particularly for his cool and soldierly bearing in the action in which he was disabled. Sergeant Miles was pensioned by the bureau at eight dollars per month. He represents that this sum is *inadequate to his support*, and that he would retire to the military

asylum, but to do so he must relinquish the whole of his present pension and leave himself without a cent for the support of his two young and motherless children. He therefore prays an increase of pension to the rate of his pay while in the service, and at the time he was disabled.

The committee find that in the case of Isaac Griffiths, and others, Congress has exercised its discretion in increasing pensions to non-commissioned officers, who have distinguished themselves by gallant and daring conduct, to the rate of their duty pay. And after a full examination of the case of Sergeant Miles, and a personal interview with him, they are satisfied that an exception to the provisions of the general statutes could not be made in a more deserving case, or in favor of a soldier more worthy of respect and gratuity. They, therefore, herewith report a bill, and ask for it the favorable consideration of the Senate.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 353.

IN THE SENATE OF THE UNITED STATES.

July 13, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 450.]

The Committee on Foreign Relations, to whom was referred the petition of William Rich, late secretary of the United States legation in Mexico, have had the same under consideration, and report:

The petitioner represents that he was appointed secretary of legation under the Hon. Robert P. Letcher, United States minister to Mexico; that from the departure of Mr. Letcher, on the 2d August, 1852, to the presentation of his credentials by Mr. Conkling, on the 30th November ensuing, he acted as chargé d'affaires of the United States; that for that period—three months and thirty days—he only received the compensation of a secretary of legation, and now asks that he may be allowed the difference between the compensation of a secretary of legation and that of a chargé d'affaires.

A letter from the Secretary of State, dated May 30, 1854, in answer to inquiries made of him by the committee, fully sustains the statements of the petitioner, and adds that the petitioner rendered faithful and important services whilst acting in the character of chargé d'affaires, and that during the time he so acted, there was no other accredited representative in Mexico from this government.

Your committee find, upon examination, that it has heretofore been the usual practice of Congress to make such allowances in similar cases, and regarding it as right in itself, report a bill in favor of the petitioner, and recommend its passage.

STANFORD LIBRARIES

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 354.

IN THE SENATE OF THE UNITED STATES.

July 13, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 451.]

The Committee on Foreign Relations to whom were referred the memorials of the Hon. Robert C. Schenck, late United States minister plenipotentiary to the court of Brazil, and the Hon. John S. Pendleton, late United States chargé d'affaires to the Argentine confederation, praying compensation for services rendered and expenses incurred by them on special missions to other governments than those to which they had been originally accredited, having had the same under consideration, respectfully report:

That it appears from the memorial of Mr. Schenck, that while residing at Rio de Janeiro, in Brazil, in the character of envoy extraordinary and minister plenipotentiary of the United States to that empire, he received on the 12th day of June, 1852, two letters of special instruction from the Secretary of State, (of the United States,) dated severally on the 28th and 29th of April, 1852, directing him to repair to Buenos Ayres in the Argentine confederation, and to Montevideo in the oriental republic of Uruguay, there in conjunction with Mr. John S. Pendleton, the chargé d'affaires of the United States to the Argentine confederation, to propose to, and, if possible, conclude with those respective governments favorable treaties of commerce—for which purpose he was duly accredited to those governments with all the attributes of an envoy extraordinary and minister plenipotentiary.

That, in obedience to the instructions and authority thus given, he hastily prepared and proceeded successively to Montevideo and to Buenos Ayres, joined his colleague in the missions (Mr. Pendleton) at the latter place, and after being presented and received, opened negotiations on the subject of the mission, which could not, however, at that time be conducted to a favorable result, on account of the unsettled state of the government and country. That, together with Mr. Pendleton, he went thence to Montevideo, opened negotiations with the republic of Uraguay, and on the 28th of August, 1852, concluded a treaty of amity, commerce, and navigation with that republic.

That after having obtained an understanding with General Urquiza, the provisional director and head of the Argentine confederation, that the negotiations with that government should be resumed in November following, and that in the meantime no precedence or advantage over

the United States should be allowed to any other nation, he returned to his post at the court of Brazil in September, 1852. That the breaking out of civil war and continuance of political disturbances in the Argentine confederation delayed his return to Buenos Ayres until May, 1853, when there seemed to be a good prospect for the cessation of hostilities, which would enable them to resume the negotiation previously suspended. That upon the pacification of the country—brought about in part by the intervention of his colleague and himself—they succeeded in concluding, on the 10th day of July, 1853, at San Jose de Flores, a perpetual treaty with the Argentine confederation, securing throughout its limits the navigation of the Rio de la Plata and its great tributaries, free to the merchant flag of all nations, and on the 28th of the same month concluded another treaty, general and perpetual of friendship, commerce, and navigation with that confederation, and then returned to his post in Brazil, on the 14th September, 1853.

That while engaged in these special duties, he made long voyages by sea, and travelled altogether, by land and water, more than six thousand miles; and that he had to reside for more than six months in two distant capitals, while he was obliged to keep up a house and establishment in the expensive city of Rio de Janeiro.

For these services thus rendered the memorialist asks that he may be allowed the usual outfit of an envoy extraordinary and minister plenipotentiary for each of the special missions on which he was thus employed, and also for his actual expenses incurred therein.

The memorial of the Hon. John S. Pendleton sets forth his co-operation, in the services above mentioned, as the colleague of Mr. Schenck; and further, that in the month of November, 1852, under the instructions of the Department of State of the United States, and clothed with full powers, he proceeded to Assumpcion, and in conjunction with the envoys of England, France, Sardinia, and Brazil, after a protracted negotiation, concluded a treaty with the republic of Paraguay, by which that country was opened to our commerce.

That, in performing the duties of these special missions to the oriental republic of Uruguay and to the republic of Paraguay, he was absent from the government to which he was originally accredited for more than six months; incurred heavy travelling and other incidental expenses, without any diminution, for the time being, of the expense of keeping up his house and establishment at Buenos Ayres; and for these services thus rendered asks that the same compensation may be allowed him that may be granted to his colleague, Mr. Schenck.

Copies of the letters of appointment to the special missions above mentioned, together with letters of credence to the respective courts, are filed with the memorials; and the several treaties referred to have all been submitted to the Senate for their approval.

To allow the full prayer of the memorialists in these cases, would, in the opinion of your committee, be the introduction of a new system of compensation for public services, unsanctioned by the principles of a wise and just economy. The allowance of outfits to our foreign ministers, it is presumed, was not designed to operate as an indirect mode of increasing their compensation, but as means to enable them to

up, at the courts to which they are accredited, such establishments might be suited to their station.

In this case the memorialists had been regularly accredited as the plomatic representatives of the United States—one as full minister to azil, and the other as chargé d'affaires to the Argentine confedera-n, at which places only did the expense of permanent establish-nts devolve on them. The special missions on which they were at were temporary in their character, under letters of credence only negotiate treaties, and not further accrediting them.

For these reasons your committee are of opinion that the claim for fits should not be allowed. Believing, however, that the perform-ce of those special services necessarily subjected the memorialists, the time engaged therein, to a large increase of expenses, it would em to be but just and proper that they should receive full and ample lemnity for those expenses.

The committee understand that their actual expenses, whilst absent m their posts on the missions spoken of, have been, for the most part, owed at the Department of State. They consider, however, from e peculiar circumstances of the case, and the condition of the coun-es visited by these gentlemen, that extraordinary expenses may have en incurred, for which no voucher or other evidence than their own atements can be produced, and which the committee consider should allowed them; and, in lieu of the outfits asked, the committee re-mmend, as compensation for this extra service, a per diem, at the te of the established salary of a minister, for the time they were so nployed; and they report a bill accordingly.

STANFORD LIBRARIES

d CONGRESS, 1st Session. [SENATE.] REP. COM. No. 355.

IN THE SENATE OF THE UNITED STATES.

JULY 13, 1854.—Ordered to be printed.

Mr. DAWSON made the following

REPORT

(To accompany bill S. 453.)

e Committee on Military Affairs to whom was referred the memorial of Brevet Brigadier General John B. Walbach of the United States army, aving had the same under consideration, report:

That the memorialist presents a claim for extra services performed him while aid-de-camp to General Wilkinson during the making of treaties with the Cherokee, Chickasaw, Choctaw and Creek Indians he far west, in the years 1801–'02, and for the value of a horse lost him in that service, and for extraordinary expenses incurred by him he same time.

The committee in investigating this case find the facts to be as Gen- l Walbach states them. "That in 1801 Brigadier General Wilkin- was appointed a joint commissioner on behalf of the United States, reat with the several tribes of Indians east of the Mississippi river, t your memorialist accompanied General Wilkinson as his sole aid- camp, and attended him on said commission, a service extraneous is duty as a military officer."

During this service General Walbach was necessarily exposed to all inclemencies of the winter, and the parching heats of summer, elling over four thousand miles on horseback. His horse died of essive fatigue, and he being by the nature of his service separated n the commission, he was obliged to procure subsistence at his own ense.

These facts are fully supported by a letter from Major General omb, who states, in addition, that General Wilkinson was paid for se extra services a per diem of eight dollars per day, and he (Ma- lb) himself, who was secretary to the commission, received an extra wance of four dollars per day.

n view of all the circumstances of this case, and in order that justice be done to a faithful officer who was as well entitled to extra pay hose who did receive it, the committee report a bill for his relief.

This claim was presented to Congress in 1804, when no final action had upon it, and General Walbach, supposing it to be continuously re Congress, did not call attention to it. It has been now again sented to Congress, and the committee regarding it as equitable and recommend the passage of the bill.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 356.

IN THE SENATE OF THE UNITED STATES.

July 13, 1854.—Ordered to be printed.

VIEWS OF MR. JONES, OF IOWA, MR. CLAY, AND MR. WILLIAMS,

of the

COMMITTEE ON PENSIONS,

On a resolution of the Senate instructing them to enquire into the expediency of granting a pension to the widow of James Batchelder, of Massachusetts, who was killed while assisting the United States marshal to execute a law of Congress.

The Committee on Pensions, to whom was referred a resolution of the Senate instructing them to inquire into the expediency of granting a pension to the widow of James Batchelder, of Massachusetts, recently killed while assisting the United States Marshal to execute a law of Congress, beg leave to report:

The facts of this case, so far as they have come to the knowledge of your committee are these:

On the 26th of May last (1854) a negro named Anthony Burns was arrested in the city of Boston, by the United States marshal for the district of Massachusetts, upon a warrant issued by the United States commissioner for the said city, under the provisions of laws of Congress approved September 12, 1793, under the administration of General Washington, and September 18, 1850, for the reclamation of fugitives from labor. He was claimed as a slave by a citizen of the State of Virginia, and was arrested and held with a view to an examination before the said commissioner, according to law. While in the custody of the United States marshal, and confined and guarded by said marshal and a small force of deputies, in a room of the court house in the city aforesaid, a violent attack, with a view to his rescue, was made upon the court house, (by a fanatic and lawless mob.) After several attempts, the attacking party succeeded in battering down one of the principal doors of the court house, and effected an entrance, armed with clubs, axes, pistols, &c. They were resisted by the marshal and his force, and after a desperate struggle driven from the building. In this struggle James Batchelder, one of the small but resolute force under the marshal, became a sacrifice to his devotion to his duty, under the laws of his country. The verdict of the coroner's jury was as follows: "That on the 26th of May, about forty-five minutes past nine o'clock, p. m., while James C. Batchelder was employed, with others, by Watson Freeman, esq., United States marshal, as an assistant in defending one of the west entrances of the court house in the city of

Boston, from the assaults of a mob, he received a wound in the left groin, severing the femoral artery, which caused his death; and that said wound was inflicted by a long, narrow, and sharp instrument in the hands of some one of the persons engaged in the assault, to the jurors unknown, &c., &c."

By this act of violence the widow of Batchelder is deprived of a husband and protector. The question is as to the propriety of granting her a pension, in view of the circumstances attending the death of her husband. The Senate need not be told that the case does not come within the provisions of any general law of Congress. But it cannot be denied that the practice of the government has seemed to recognize an analogy in cases of this character to those provided for in the general statutes, and that it has been deemed "expedient" to acknowledge and reward distinguished and patriotic services, though rendered in the discharge of duties not of a military character, but involving hardship and hazard. In numerous instances has Congress rewarded such services to the individuals rendering them, or by acts of gratuity to the widows and orphans of those whose lives were sacrificed therein. As early in our history as 1794, the sum of $2,000 was voted to the widow of Robert Forsythe, marshal of Georgia, who was killed in the discharge of his duty. In 1820 the sum of five hundred dollars was granted to the widow of John Heap, of Baltimore, "who was beset by ruffians and murdered" while carrying the United States mail. And in 1844 a pension was granted, for life, to an Indian woman of the Creek nation, for her interference to save the lives of prisoners condemned to death by her people. Instances are not rare upon our statute books in which pensions, sums of money, lands, or other manifestations of the public gratitude have been bestowed for services rendered by public officers and private citizens not connected with the military establishment of the country; but enough have been cited to show the scope of Congressional action in the reward of meritorious services, and to show further that the expediency and propriety of expressing the obligations of the public, in some appropriate manner, has been recognized and practiced upon by the government in cases where the services and sacrifice have not been more remarkable than in the instance now under consideration.

But the analogy of this case to that of the soldier who is provided for under the general statutes, may be made more apparent by noting two facts: First, that under the general laws the revenue police of the country, "when acting in co-operation with the navy or army," have been granted pensions, "in the same manner, and to the same extent;" second, that had any of the United States troops, employed in conjunction with the marshal's force, (of which Batchelder was one,) at Boston, to aid the execution of the law and preserve the peace, been disabled, his case would have found ample provision in the general pension laws. It would be difficult to define the distinctions of position or obligation which would in equity demand a pension in the case of the soldier, and refuse it in the case of a marshal, both being employed under contract with the government, and under oath to support the Constitution and the laws, and engaged in the same service and exposed to the same dangers.

But, again, if there is merit in the soldier's sacrifices and heroism in defence of the honor and security of his country against a foreign enemy, there is none the less of merit in the patriotism and courage of the public officer who offers up his life in defence of the majesty of the law against the violent assaults of a domestic foe.

But there are further and peculiar considerations which weigh with your committee in favor of a recognition of the merit and patriotism of the services of Batchelder, in rendering which he lost his life. He was engaged at the time in assisting to execute a law of Congress; a law which but makes provisions for carrying out and sacredly maintaining one of the express obligations of the Constitution. It is well known that under the peculiar municipal regulations of at least one-half of the States of this Union, (a state of things which existed was recognized and guarantied in the organization of the government,) obedience to the law, and a faithful observance of the requirement of the Constitution respecting the rendition of fugitives from labor, is an absolute necessity to the harmony, peace, and perpetuity of the confederacy.

Under these circumstances, it has become necessary as a security to property, and to allay agitation and quiet sectional misgivings; to assure the whole country of the determination of the general government to faithfully adhere to the compromises of the Constitution, and of its ability to protect and secure the rights of all as guarantied by that instrument. And it becomes the duty of Congress in some emphatic way to express its approval of the public officer, who, true to his oath and his duty, fearlessly executes the law of the land. One most appropriate means of doing this, and at the same time discharging a public obligation, will be to reward the services of Batchelder to his bereaved widow. While the committee deplore the existence of a spirit of riot and insubordination, and of a disregard of all the duties of citizenship, and especially the valuable life that has been sacrificed to it, they cannot but congratulate the Union upon the fact that the people of Massachusetts, her citizen soldiery, and her public officers are, as ever, ready to rally to sustain the supremacy of law, and vindicate the honor and the devotion to the Constitution and the Union of that glorious old commonwealth. The conduct of the United States marshal and his deputies, of the mayor and police of Boston, and of the citizen and regular soldiery upon this occasion, was worthy of all praise; and the committee regard it both a pleasure and a duty to commend their promptness to obey the call of duty, their firmness, moderation and prudence, by which alone consequences the most deplorable were arrested, and the law executed with so little sacrifice of life and property.

After due deliberation, the committee have preferred in this case to acknowledge the obligations of the country to the widow of the deceased Batchelder, not in the form of an annual pension, but by granting to her a sum adequate to a provision for her future support, if invested and husbanded with proper prudence and economy. They herewith report a bill, for which they ask the favorable consideration of the Senate.

GEO. W. JONES, of Iowa.
C. C. CLAY, Jr.
JARED W. WILLIAMS.

STANFORD LIBRARIES

VIEWS OF MR. SUMNER AND MR. SEWARD.

The undersigned, a minority of the Commitee on Pensions, cannot ncur with the majority of the committee in reporting a bill for the ief of the widow of the late James Batchelder. They also dissent m the report accompanying the bill, which, however, is understood t to proceed from a majority of the committee.

In granting pensions, or bounties of a kindred nature, it has been the bit of the committee to require evidence of all essential facts and cumstances; not, indeed, according to the rigorous forms of a court law, but with substantial fullness and authenticity. Applications pensions are constantly rejected for defect of testimony. But this asonable practice, which is a necessary safeguard against abuses, has en disregarded in the present case. No evidence of any kind—not hred or particle—was produced. The majority of the committee untook to act at once, on loose and general report, gathered at a moent of excitement from the public press. In this respect they have viously proceeded with more haste than discretion. Such a course nnot be in conformity with approved precedents. In itself it will be bad precedent for the future.

But this proceeding seems more obnoxious to comment, when it is own that it appeared, from the very sources on which the committee lied, that the facts in question are all at this moment the subject of licial inquiry, *still pending*, in the courts at Boston. Several citizens ve been indicted for participation in the transaction to which reference is made, and in which Batchelder is said to have been killed. eir trials have not yet taken place, but are near at hand. Under ese peculiar circumstances, the indiscreet haste of the committee, as acting in advance of authentic evidence and *lite pendente*, is enced by the possible detriment to the grave interests of justice, which will admit should not be exposed to any partizan influence from road. The report accompanying the bill, without any aid from huan testimony, undertakes to pronounce dogmatically on facts which ll be in issue on these trials. Anticipating the court, and literally thout a hearing, it gives judgment on absent persons, as well as on stant events.

On grounds irrespective of the merits of the case, the undersigned ject to any action upon it on the present evidence, and in the existing te of things. They object for two reasons: *first*, that such action uld become a bad precedent, opening the way to a disregard of evince in the distribution of pensions and bounties; and *secondly*, that it uld be an interference—offensive though indirect—with the adminration of justice, in matters *still pending*, and involving the fortunes several citizens. These reasons are ample.

But on other grounds, of a different character, and vital to the merits the case, the undersigned must dissent from the majority of the comttee.

Regarding the act of Congress, usually known as the fugitive slave l, as unconstitutional, while it is justly condemned by the moral se of the communities where it is sought to be enforced, the under-

signed are not disposed to recognize any services rendered in its forcement as meritorious in their character. Especially are they willing to depart beyond the clear line of precedents, in voting boun on account of such services. This, of itself, is a sufficient reason opposition to the proposed bill.

But admitting for the moment the asserted constitutionality of the fi tive slave act, and its conformity with just principles of duty; and adm ting further, that efforts for its enforcement are to be placed in same scale with efforts to enforce other acts of Congress, of acknc ledged constitutionality and clear conformity with just principles duty, then the undersigned beg leave to submit that, according to practice of our country, such efforts have not been considered as e titled to the ordinary reward of pensions or kindred bounties.

The pensions and kindred bounties of our country have been foun exclusively on *military* and *naval* services. In England, *civil* servic whether on the bench, in diplomacy, or in the departments of State, subjects of pension; but it is otherwise here. With us there are general laws to this end; nor are there special laws of such cl meaning and character as to become precedents, sanctioning pensi or bounties for civil services. A report of this committee, made by chairman at this very session of Congress, states the rule and pract of Congress. Here is the whole report, (Rep. Com., No. 199:)

"IN SENATE OF THE UNITED STATES.

APRIL 11, 1854.—Ordered to be printed.

Mr. JONES, of Iowa, made the following report:

The Committee on Pensions, to whom was referred the petition of Rebe Bright, beg leave to report:

"That the petitioner is the widow of Jacob Bright, an armorer, w was killed at the navy yard in this city by the bursting of a shell. *being an employé of the government, and in no sense to be regarded a its "military or naval service," the committee can find no reason, found law or justice, for pensioning his widow.* Her case is precisely the the widow of a laborer, or mechanic, employed by the day or m upon any public work. They therefore recommend that the pray the petitioner be rejected."

And yet in the very teeth of this recommendation, made by th selves at this very session, the committee now propose to bestc bounty upon such services. If the committee were right in their mer report, they cannot be right now.

The report accompanying the bill shows that three of the comm have felt that their recommendation needed the support of preced and they have ransacked the records for them. Two only are produ

The first is an act of Congress, bearing date June 7, 1794, w provides "that the sum of two thousand dollars be allowed the w of Robert Forsyth, late marshal of the district of Georgia, for the of herself and the children of the said Forsyth." On search in office of the secretary of the Senate, where this bill originated,

so at the Treasury, where the money was paid, no papers have been und showing the occasion of this grant; nor has anybody undertaken state any. This precedent, then, can be of little value in establish- g an important rule in the dispensation of national bounties.

The only remaining precedent adduced by the committee is an t bearing date, May 8, 1820, and providing "that the postmaster neral be directed to pay to the widow of John Heap, late of the city Baltimore—who, while employed as a carrier of the mail of the nited States, having the said mail in his custody, was beset by ruffians d murdered—out of the money belonging to the United Sates, arising om the postage of letters and packets, $500 in ten equal semi-annual yments." On this precedent Congess will surely hesitate to estab- h a rule which will open a new drain upon the bounty of the country.

The general laws do not award pensions or bounties for services in forcing the revenue laws of the country, and it is not known that y special acts have ever been passed rewarding such services, though ey have often been rendered at imminent danger to life, as well from ipwreck as from the violence of smugglers. The proposed bill ill be an apt precedent for bounty in this large class of cases; and may properly be opposed by all who are not ready for a new batch claimants.

The undersigned venture to make a single comment further on the port accompanying the bill. This report, not content with assigning asons for its proposed bounty, proceeds to take cognizance of the nduct of the people of Massachusetts; the citizens, soldiers, the arshal and his deputies, the mayor and police of Boston, in the recent ansaction, and assumes to hold the scales of judgment. In this spect it evinces an indiscreet haste similar to that already displayed acting on the present proposition, without authentic evidence, and uring the pendency of judicial investigations. It appears from the pub- c journals, out of which all our information on this matter is derived, at the conduct of several public functionaries on this occasion in Mas- chusetts has been seriously drawn in question. The marshal of the istrict is openly charged with making the arrest of the alleged fugitive, nder the fraudulent pretence that he was a criminal—a scandulous de- ice which no honest man can regard without reprobation. The mayor f Boston is also openly charged with a violation of the primal princi- les of free institutions and of the law of the land, in surrendering the ity for the time being into the possession of a military force, and thus stablishing there that supremacy of arms under which all law is silent. But on these things the undersigned express no opinion. They esire only to withhold all assent from the blindfold ratification which e report accompanying the bill volunteers, without reason or occasion, the conduct of public functionaries as well as of others, who, accord- g to some evidence, may have acted very badly.

CHARLES SUMNER.
WILLIAM H. SEWARD.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 357.

IN THE SENATE OF THE UNITED STATES.

July 14, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 454.]

The Committee on Foreign Relations, to whom was referred the petition of John P. Brown, principal interpreter of the Turkish language to the United States legation at Constantinople, have had the same under consideration, and report:

That the petitioner sets forth in his petition that while acting as principal interpreter of the Turkish language to the legation of the United States at Constantinople, he was on the 30th July, 1852, accredited by an order of the President of the United States chargé d'affaires *ad interim* to the Ottoman government, by Mr. Marsh, United States minister resident in Turkey; that he filled that office in the absence of any other diplomatic agent of the United States at Constantinople until the return of Mr. Marsh from Greece on the 5th July, 1853; that on the 13th December, 1853, he was again accredited by order of the President of the United States as chargé d'affaires *ad interim* to the Ottoman government by Mr. Marsh on his return to the United States, and continued to act as such until the arrival of Mr. Spencer on the 31st January, 1854; that during the two periods above stated, amounting to twelve months and nineteen days, he performed all the duties and incurred all the expenses incumbent on the representative of the United States; and having received only the compensation of principal interpreter of the Turkish language during that time, he prays that he may be allowed the difference between that compensation and the usual allowance of salary and outfit to a chargé d'affaires.

A letter from the Secretary of State, in answer to inquiries made by the committee, and dated May 31, 1854, fully sustains the statements of the petition, and adds: "It gives me pleasure to bear witness to the general merits and services of Mr. Brown as a faithful and efficient officer."

The committee believe that in this case the claimant is justly entitled to receive the compensation of a chargé d'affaires during the time he acted in that capacity, less the amount heretofore received by him as secretary of legation for the same period. They do not allow an outfit because they are not aware of any precedent for such allowance where there was a minister accredited at the post, nor do they think the circumstances of the present application call for it. They report a bill in accordance with these views, and recommend its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 358.

IN THE SENATE OF THE UNITED STATES.

July 17, 1854.—Ordered to be printed.

Mr. Bell made the following

REPORT.

[To accompany Bill S. 457.]

The Committee on Naval Affairs, to whom was referred the memorial of William Clark, praying relief and indemnity for losses sustained by him in consequence of an alleged erroneous construction, by the officers of the government, of a contract to furnish materials and make a certain number of cubic yards of embankment at the navy yard at Memphis, have had the same under consideration, and make the following report:

It appears, from the testimony before the committee, that the memorialist, on the 30th day of June, 1846, entered into a contract with Joseph S. Watkins, navy agent at Memphis, acting under instructions from the Navy Department, by which he covenanted to "furnish all the materials and make 221,000 yards of embankment at the navy yard at Memphis, Tennessee, or so much as shall (should) be required of him by the engineer, or other duly authorized agent; the embankment to be made of clay, sand, gravel, or other good materials, in such manner, and plans as shall (should) be directed by the said engineer, or other authorized agent;" and, further, to "finish the embankment on or before the 15th day of July, 1847."

The navy agent, on behalf of the government, stipulated "that for the materials and embankment made, approved of, and received and inspected as aforesaid, according to the time and stipulations of this contract, there shall (should) be paid to the said William Clark, or order, by the navy agent at Memphis, on account of all bills presented for the aforesaid materials and work delivered and executed, made out in approved form, authenticated by the certificate of the inspecting officer or officers, and approved by the commanding officer of said yard, the following price, viz., eighteen cents for every cubic yard."

It was further stipulated that "no other charge (was) to be admitted, nor allowance to be made by the United States for, or on account of, this contract;" and that "ten per centum" of the amount of all payments on account of said contracts was "to be withheld" until the same was, "in all respects, complied with, and ninety per centum of the amount of all deliveries made" was to be paid by the navy agent, within thirty days after bills, duly authenticated as, aforesaid, should be presented to him.

The above are all the stipulations in the contract material to the question to be considered by the committee.

It appears that the memorialist, soon after the date of the contract, proceeded in the performance of it under a verbal understanding with the officer of the yard having the control of the matter, that the estimates, or the admeasurement of the work and the payments therefor, should be made monthly; but after a few monthly settlements had been made, a serious difficulty or misunderstanding arose between the parties as to the fair construction of the contract, in regard to the mode in which the work was to be estimated or measured.

One of the monthly settlements was based rather upon an estimate than a measurement of the work, as the contractor had made a deposite of materials upon some unfinished embankment commenced by the commandant of the yard, under an experiment of doing the work by hired carts and day laborers, but abandoned as too costly. The quantity or number of cubic yards of this embankment was ascertained or estimated from some data in possession of the officers, and deducted from the whole number of cubic yards then found to be in the yard, and the contract price was allowed him for the remainder. The contractor complained of the estimate which had been made of the quantity of the embankment made before he entered upon the work, on the ground that no allowance was made for shrinkage and waste; and fifteen per centum on the estimated number of cubic yards was finally conceded to him by the commandant. But the monthly settlements, except in few instances, it appears, was made by the engineer; by taking as the basis of the estimate of the amount, the contractor was entitled to be paid for the monthly work, the number of cubic yards of embankment ascertained by measurement to be then in the yard, and deducting therefrom all previous payments on account of the same. It is clear from this, that the whole work was considered by the engineer or commandant to be at the risk of the contractor, from the commencement of the work to the final settlement; making no allowance to him for shrinkage from any cause, or for any waste by rain, or the current of the river, which, in high water, swept the base of the embankment for a considerable distance. The effect of this construction of the contract, was undoubtedly to deny to the contractor any payment, except for the *compacted* and *solid* embankment which might remain at the close of his undertaking. As soon as the contractor perceived the ruinous consequences of such a rule of measurement and payment, he remonstrated and protested against it; but the commandant was inexorable, and would admit no change or rule. The contractor, however, continued in the performance of his contract, under the opinion of the navy agent, who took a different view of the contract from that of the commandant—that the government would do him justice and pay him for all the materials delivered by him, and measured periodically or monthly. The question was finally referred to the Navy Department; and as soon as the contractor was advised that the construction placed on the contract by the commandant had been there adopted and confirmed, and that he would be only paid accordingly; and as he foresaw that ruin to his credit and resources would be the inevitable consequence, if he persevered in the work, abandoned it; and subsequently sold out, at a great loss, his roads, made at considerable cost, to convey materials from some distance to the yard, also his carts and

other implements, to the new contractor for finishing the embankment. The final adjustment of the account between the government and the contractor, for the materials delivered and work done by him, was made upon the basis and according to the construction put upon the contract by the officers of the yard; and he now claims to be equitably and justly entitled to such further amount as he can show that he would have received had the estimates and measurement of the work been made periodically, and according to his construction of the contract—or, in other words, he claims to be allowed eighteen cents per cubic yard for all the materials delivered by him, estimated and measured monthly as dry embankment, as distinguished from embankment settled and compacted by the rains of two winters, and the uses to which it was applied by the government.

The contract, as will appear from the extracts above, was very inartificially drawn, and is loose upon its face. Although it is evident, from the terms of it and the nature of the case, that the work was to be measured and paid for as it progressed, there was no stipulation as to the rule or basis of the estimate or admeasurement of the work at any stated times or intervals during its progress. There is also some confusion and uncertainty as to the true intentions of the parties arising from the language employed in it. The contractor was to be paid, according to the phraseology of one part of the instrument, "all bills presented for the *materials* and work *delivered* and executed;" from which it would appear that the "embankment made" might not have been intended to be the only rule or basis upon which the estimates were to be made out and payments to be made, but that "materials delivered" might also be the subject of estimates and measurement. But as the contractor had covenanted to furnish the material and *make* a certain quantity of cubic yards of embankment, without any stipulation for any allowance on account of shrinkage or waste, or diminution from any other cause between the time he entered upon the performance of the work and its completion, the committee are not prepared to say that the officers of the yard or of the Navy Department, in the discharge of official duties, did not do right in holding the contractor to the performance of his contract according to its literal interpretation; but they at the same time are of opinion that the spirit of the contract, under all the circumstances of the case, might have authorized a more liberal construction. At all events, it is clear that, under the rigorous construction adopted by the department, the contractor has been subjected to considerable loss, and the committee think that it is such a case as will fully justify Congress in granting relief.

It appears from the testimony, that the limits of the navy yard at Memphis include a bottom, or alluvial deposit of considerable extent, much below high water mark, and bordering for a distance of six hundred feet on the Mississippi. The embankment to be made under his contract was designed to raise this bottom above the overflows of the Mississippi, which often flood the low alluvial formations on its banks. The memorialist was, by the terms of his contract, to complete the embankment in a given time, and he was not at liberty to suspend the work during the overflows of the river. He was also required by his contract to deposit the materials for the embankment at such points or

places as he should be directed by the officers of the yard; and it is in proof that he was occasionally required to deposit them, composed, as they were, chiefly of loose earth and sand, and to extend the embankment at points overflowed at the time to the depth of from three to seven feet. The current in the Mississippi, at Memphis, in high water, is at the rate of three miles an hour, and if, to the wash and removal of the fresh materials deposited under such circumstances, be added the increased waste and shrinkage caused by the saturation with water of all the underlying materials deposited previously to the overflow, it will be seen that the contractor would necessarily be liable to great loss, unless he should be paid for the quantity of materials furnished, instead of the number of solid cubic yards of the embankment remaining at the end of the work, or allowed an adequate per centage for such a waste of materials wholly unavoidable on his part, when required, as he was, by the engineer, to make the deposits under his direction. In addition to the direct waste by the waters of the river, the compressible nature of bottom, or recent alluvial accretions, subjected the contractor to further loss by the sinking of the foundation upon which he had to make the embankment. And besides the shrinkage to which the embankment was liable, from its own weight, it was liable to a further shrinkage from the use which the proof shows was made of it by the employés of the officers of the yard, in making roads and hauling over it heavy building timbers, rock, brick, and other building materials, and from the erection of buildings upon a part of it. In addition to all these causes of loss to the contractor, under the rule adopted and insisted upon for the measurement of the work, the wash on the surface of the embankment, occasioned by heavy falls of rain, which, after saturating the loose upper stratum of earth, naturally flowed off in currents, forming deep gullies, all of which the contractor was compelled to fill up and bring to the required level.

It is material to notice, that in the new letting of the contract for the finishing of the embankment, which became necessary after the memorialist abandoned the work, the advertisement expressly stated, that the embankment to be made was to be at the risk of the contractor, and that no allowance would be made for shrinkage, or waste of materials from any cause; and the consequence was that the lowest bid made was thirty-five cents per cubic yard; and the contract was made with all the specifications in the advertisement. It also appears from the testimony, that the said contractor was unable to finish the embankment on the terms stipulated in his contract, and that he was subsequently allowed as much as forty-five cents for some portion of the embankment made by him.

The committee think that under the peculiar circumstances and hardships of this case, the contractor should be paid the contract price of eighteen cents the cubic yard for the material delivered by him; but as the testimony presented in the case is voluminous, and of such a nature as would require a more careful examination than they can give it, the committee recommend that it be referred to the proper accounting officers of the treasury, to ascertain the amount which the contractor is entitled to receive, in conformity with the rule or principle, for the settlement of his account, which they recommend; and they report a bill accordingly.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 359.

IN THE SENATE OF THE UNITED STATES.

July 19, 1854.—Ordered to be printed.

Mr. Wade made the following

REPORT.

(To accompany bill S. 460.)

The Committee of Claims, to whom was referred the petition of Ephraim Hunt, report:

The evidence in this case presents the following facts: In December, 1812, Mr. Hunt enlisted at Topsham, Maine, as a private in the service of the United States, as a volunteer for one year, and went, with his company, to Plattsburg, N. Y. He remained in the service until the 25th September, 1813, when he re-enlisted into Capt. Buck's company, U. S. army. This enlistment, according to his own affidavit, and the affidavits of John Dusten and Daniel Greenlee, who swear that they were present at the time of the enlistment and personally cognizant of the fact, was distinctly stated and understood at the time, to be for "during the war," and not for "five years." It was, however, held by the officers, to be for five years. He continued in the service until the 14th September, 1815, when, the war being closed, he claimed that his term had expired, and requested his discharge, which was refused, on the ground that the enlistment was for five years.

Believing, as he says, that he had faithfully served out his term of enlistment, he left the army without his discharge, and without having received either his bounty or any pay for the time he had served. The accounting officers decided, on his application for pay, that he had forfeited all claim on the government by the act of desertion.

He is now in necessitous circumstances, advanced in years, and deprived of the use of his hands by the loss of his fingers, and prays that Congress will cause his pay and bounty, for services rendered in fighting the battles of his country in time of war be allowed to him.

The committee are of opinion, from the evidence presented, that when he enlisted, it was his understanding and intention to enlist for the period of the war, although, by some error, he was enrolled for five years. That upon the termination of the war and the restoration of peace to the country, he thought he had faithfully complied with his engagement, and, under that belief, left the army. The committee do not intend to sanction or excuse the course he adopted, but think he should have remained in service until he could have obtained his regular discharge; still, under the peculiar circumstances of the case, and in view of faithful services rendered during the war and till some time after its close, they are of opinion that the government ought not to withhold from the old soldier the small pittance to which his previous patriotic services had entitled him. They therefore report a bill for his relief.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 360.

IN THE SENATE OF THE UNITED STATES.

July 19, 1854.—Ordered to be printed.

Mr. Chase made the following

REPORT.

[To accompany Bill S. 464.]

The Committee of Claims, to whom was referred the petition of Israel Ketchum, report:

In the year 1818 Messrs. Farrow and Harris entered into a contract with the United States for the construction of a fortification at Dauphin island, in Mobile bay; and in 1819 these contractors entered into a contract with the petitioner, Mr. Ketchum, to furnish labor and materials for that purpose.

The petitioner represents that, in compliance with his contract, he took out from New York a number of mechanics and laborers, with provisions, implements, and materials, to Dauphin island, in doing which he expended $20,000, and that the only sum received of Farrow and Harris, for this expenditure, was $5,000.

The erection of this fortification was subsequently abandonded by the government, and several acts have been passed by Congress for the relief of the contractors, Farrow and Harris, with the view of indemnifying them for their losses consequent upon the abandonment of the work by the United States. One of these acts, passed 3d March, 1825, authorized the accounting officers to pay to Nimrod Farrow, surviving contractor, the sum of $73,747 78, and to surrender to him all liens and securities held by the government for advances made on the contract: *Provided*, That the said Nimrod Farrow, before he shall receive any of the personal property to be delivered as aforesaid, and before he shall be entitled to receive the money above mentioned, shall enter into a bond to the Secretary of War, with security to the acceptance of said secretary, in the penal sum of $120,000, conditioned that the said Nimrod Farrow shall appropriate the net proceeds of the personal property, and the money to be received, towards the payment of the debts contracted by Farrow and Harris, or either of them, or any other person or persons contracting under said Farrow and Harris for supplies furnished and services rendered in and about the erection of said fortification; and that if there shall be any surplus, after paying the said debts contracted as aforesaid, said Farrow shall pay to said Harris, or his legal representatives or assigns, his just proportion of said surplus; which bond shall be deposited with the Secretary of War, and it shall be *the duty of the said secretary*, upon the application of any of the parties

interested therein, and satisfactory proof of the failure of the said Nimrod Farrow to fulfil the condition thereof, to cause the said bond to be prosecuted for the benefit of the party or parties making such application, and of such other person or persons as may have an interest in said bond."

The petitioner thinks that, by this provision, he was entitled to the to the payment of his claim out of the $73,747 appropriated by the act, and complains that, after the failure of Farrow to pay him, he applied to the Secretary of War to have suit brought on the bond filed with him for the security of the sub-contractors; but no suit was brought, and he thinks the government should be responsible for the misapplication, by its officers, of the fund provided for his relief.

The application to the Secretary of War appears to have been made through the Hon. Parmenio Adams, then a member of Congress from New York, now deceased. The evidence relied upon to sustain this fact is the affidavit of Walter Case, who states, as a fact within his knowledge, "that the Hon. Parmenio Adams, a member of Congress, acted as agent for the said Israel Ketchum, after the said act was passed providing for the pay of sub-contractors, as aforesaid, under the said Farrow and Harris, because the said Parmenio wrote to this deponent, at Newburgh, from Washington, in the absence of said Ketchum, saying that he had applied to Mr. Barbour, the Secretary of War at that time, in behalf of said Ketchum, to have suits brought against the said Nimrod Farrow and his securities, in behalf of the sub-contractors aforesaid, and that Mr. Barbour assured him that said Ketchum should be paid; and, finally, that said Adams enclosed to deponent the papers which fully established the claim of said Ketchum against the said Farrow and the government, by Farrow's acknowledging, in writing, the amount due him," &c.

A copy of the account and acknowledgement is furnished; the original being alleged to have been lost.

The account, as stated, amounts to $22,528 55; and deducting the $5,000 paid, leaves a balance of $17,528 55. To this is appended the following acknowledgment, to wit:

"Mr. Israel Ketchum has this day presented the within account, and can produce vouchers for the same, if it should be required. I do hereby promise to Mr. Israel Ketchum, in the event of the government allowing the claim of Messrs. Farrow and Harris, contractors for the erection of fortifications on Dauphin island, his claim, so far as it is right and just, and I do not know, at the present moment, anything to the contrary; but his claim is justly due to him, which shall be paid to him, or his representatives, in the event of the government leaving it in the power of me to do so.

"Given under my hand, this 10th day of March, 1824.

"N. FARROW.

Having failed to receive any part of this claim either from Farrow & Harris or from the Secretary of War, Mr. Ketchum thinks the government is bound in equity and justice to pay him the amount to which he was entitled under the proviso of the act of 1825, and which Congress intended should have been paid out of the appropriation made in

that act, but of which he was deprived through the laches of the Secretary of War.

The committee are not disposed to admit that it is the duty of the government to interpose for the protection of a sub-contractor against loss by the failure of the principal, or from any other cause. But it appears from the terms of the act of 1825 that, under the peculiar circumstances of this case, Congress deemed it to be its duty not only to grant relief to the contractors but to provide expressly that the relief should be extended to the sub-contractors and other creditors of the original contractors. Congress having adopted that principle in this particular case the question now presented appears to be whether its benefits shall be secured to the petitioner.

The committee are satisfied that he was a *bona fide* creditor of Farrow & Harris for material and labor furnished for the execution of their contract with the government, and that his claim was intended to be embraced by the proviso in the act of 1825; and that he failed to receive any portion of the money appropriated by that act.

In addition to the testimony heretofore submitted the petitioner presents the affidavit of Gilbert C. Russell, who deposes that he signed the bond required by the act of 1825 on condition that he "was to receive the property or money in lieu thereof, and pay the debts, which amounted to $112,000." He says: "The Secretary of War, in accordance with the requirements of the act, dismissed a suit then pending against Harris & Farrow and paid the $73,000, but absolutely refused to give an order for the return of the property out of the proceeds of which their debts were to be paid. I was sued by Roland Clapp, who claimed $6,000, and was held to bail. From the order to hold me to bail I was discharged, upon the ground that the Secretary of War had failed to execute the provision of the act; whereupon Clapp dismissed his suit." The deponent adds: "Had the secretary complied with this, the most important provision of the act, the just debts of Harris & Farrow would have been paid; but the Secretary of War positively refused to execute this part of the law, and the debts due for work done and materials delivered were not paid."

In view of all the evidence in the case the committee are satisfied that this claim of Mr. Ketchum was a just debt against the contractors—so recognized by them at the time the bill for their relief, in 1824, was pending before Congress, and was intended to be embraced by the proviso to that act; and that it was not paid in consequence of the failure of the Secretary of War (if Mr. Russell's testimony is to be relied on) to carry into effect the requirements of the law.

The amount claimed, and admitted by Farrow to be due, was $17,528 55, and for the payment of this sum the committee report a bill.

'd Congress, 1st Session. [SENATE.] Rep. Com. No. 361.

IN THE SENATE OF THE UNITED STATES.

July 19, 1854.—Ordered to be printed.

Mr. Fish made the following

REPORT.

ie Committee on Naval Affairs, to whom was referred the petition of the officers and crew of the frigate St. Lawrence, asking increased compensation, report:

That the St. Lawrence is one of the vessels of the Pacific squadron, which she has been attached about two years and a half.

The petition is signed by a single officer "in behalf of the officers l crew," and limits its prayer to the officers and crew of the St. wrence; although the committee cannot see why, if it were proper be granted, it should not have included the whole of the Pacific adron.

But the committee are of opinion that the prayer of the petition uld not be granted. Whatever reasons may have existed for the owance of the extra compensation formerly made to officers and men serving on the Pacific coast, they were temporary in their aracter and have ceased to be recognized. A uniformity in price of icles of subsistence is already nearly if not quite established beeen the Pacific and the Atlantic coasts; and any difference that may main will be prolonged and probably be exaggerated by a legislative cognition in the mode asked by the petition, for if granted to the titioners it should be extended to the whole naval and military force the Pacific.

It is neither in accordance with the policy of the government nor th the interests of the service to establish different standards of comnsation at different posts or stations; circumstances may require ch difference for a time, but it should be abandoned at the earliest ssible period that a return can be made to uniformity of pay without ustice or oppression.

It is now more than two years since it ceased with respect to the icers and men in the naval service on the Pacific coast, and the mmittee are gratified to believe that no good reason exists for its reactment. Its revival would create dissatisfaction in other stations, ch of which can find some difference in the relative value of money d articles which they may wish to purchase on which to found a nilar application; and, more especially, its revival would encourage habit, on the part of those employed by government, to become plicants for pecuniary grants, and would give a mercenary tendency a service which should be of high aspirations.

The committee recommend that the prayer of the petition be denied.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 362.

IN THE SENATE OF THE UNITED STATES.

July 19, 1854.—Ordered to be printed.

Mr. Slidell made the following

REPORT.

(To accompany Bill S. 465.)

The Committee on Foreign Relations, to whom was referred the petition of Messrs. Puig, Mir & Co., of New Orleans, asking the remission of duties exacted on certain coffee imported into that port in the Spanish brigs "Pepito" and "Alatayada," have had the same under consideration, and now report:

That it appears from a certified copy of the records of the circuit court of the United States, fifth circuit, and eastern district of Louisiana, in the case of the United States against Puig, Mir & Co., that the evidence in the case established the following facts, viz: "The brig 'Pepita,' a Spanish vessel, arrived at this port (New Orleans) on the 16th January, 1853, from the city of Havana, Cuba, having on board four hundred bags of coffee consigned to Messrs. Puig, Mir & Co., merchants of that city. This was the first Spanish vessel which had come consigned to that house with coffee direct from the island of Cuba. They had read in the *New York price current* of Saturday, the 8th January, 1853, the following statement: 'Coffee duty free when imported from place of growth in all vessels, except those of the Netherlands, Spain, and Portugal, in which case it is twenty per cent. *ad valorem;* and also free when imported in vessels of those nations from their own colonies.' They had determined, in case the coffee should be liable to duty, to ship it elsewhere, being satisfied that in such a case it could not be sold there, except at a heavy sacrifice. That there might, therefore, be no doubt upon the subject, they applied for information to the naval officer and to the collector of customs, and were told by them that the vessel was subject to the payment of foreign duty only, and that there was no duty on the coffee; and they accordingly granted a *free permit* for its delivery. The coffee was landed and sold at its then market value, but at a loss on the invoice cost of $207 13. The account of sales was made out and forwarded to the shippers, the proceeds of the coffee invested in flour, and with this for cargo the Pepito had been cleared for Pernambuco, when for the first time (viz., on 22d February, 1853) the officers of the customs discovered their error, and applied to Messrs. Puig, Mir & Co. for the payment of duties whic

under the circumstances, they refused to pay; and this suit was instituted against them, and a verdict and judgment was rendered in favor of the United States on the 13th February, 1854, for $1,310 54, with legal interest."

It further appears, from the same authority, that in another suit between the same parties, and before the same court, that the following facts were proven by the evidence, viz: "The brig 'Atalayada,' a Spanish vessel, arrived at the port of New Orleans on the 30th January, 1853, direct from Havana, Cuba, with eleven hundred and ninety-one bags of coffee, consigned to Messrs. Puig, Mir & Co., of New Orleans. These gentlemen were informed by the naval officer and collector of the customs, that the vessel was subject to a tonnage duty, but that the coffee was free; and a free permit was accordingly given for its discharge. The last of this coffee was sold on the 18th February, 1853. The whole lot brought the sum of $18,078 98, being $522 90 less than the amount of the invoice. The consignees had determined, in case the coffee was subject to duty, to have exported it elsewhere, as they were satisfied that it could not then have been sold in that market, except at a much greater sacrifice. Four days after closing the last sale of this lot, (viz, on the 22d February, 1853,) Messrs. Puig, Mir & Co. were notified by the collector of customs that the coffee previously imported by them in the brig 'Pepita' was subject to duty; and on the 5th March, 1853, they were informed that this lot was also subject to a like duty, They declined paying them, and the present suit was instituted. A verdict and judgment was rendered against them on the 13th February, 1854, for $3,761 12, with legal interest."

These facts are corroborated by a letter from the Secretary of the Treasury, dated 20th May, 1854, in answer to enquiries addressed to him by a member of the committee. The secretary, however, declines any interference in the matter upon the ground that "the department has no power to grant such relief;" but in a subsequent letter, dated July 15, 1854, expresses the opinion that such relief should be granted by Congress.

From the facts above presented, established as they are by high judicial authority, it is evident that the petitioners, after using due precaution to ascertain what the law required, in order that they might regulate their conduct accordingly, have been made to incur the obligation imposed by the judgments of the court above-mentioned, solely through the error of the revenue officers of the United States at the port of New Orleans.

The committee believe the petitioners are properly entitled to the relief asked for under the peculiar circumstances of the case, and report a bill in their favor, with a recommendation that it pass.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 363.

IN THE SENATE OF THE UNITED STATES.

July 21, 1854.—Ordered to be printed.

Mr. Brodhead made the following

REPORT.

(To accompany bill S. 466.)

The Committee of Claims, to whom was referred the petition of Elliot Smith, Wm. C. Green, and Nathan Farnsworth, report:

That the following facts appear to be well established by the evidence: That the Ship Charles Wharton was chartered by the United States for the purpose of transportiug nearly three hundred volunteer troops, with arms, provisions, baggage, and a quantity of "sauer kraut," from Philadelphia to Tampa Bay; that while on the said voyage, and so laden, about the 20th of December, 1837, she grounded on a shoal near the entrance of Tampa Bay, and was found in a very perilous condition by the petitioners, who immediately went to the aid of the vessel, and at great risk and with much labor aided and assisted in saving the troops, the guns, ammunition, and private property of the officers; that to enable him to take on board of his vessel a portion of the said troops, Captain Smith, one of the petitioners, threw overboard a part of his own cargo, consisting of barrels of bread; that one hundred and thirty of the troops were taken on board the Coasting Trader, and that the cargo of the said ship was taken on board the schooner B. D. Jackson, and all were subsequently delivered over to the custody of officers of the United States, on a requisition of the commanding officer of the said volunteers; that the petitioners, for all these services and sacrifices, have received no compensation whatever.

The claim has been before Congress since 1840, and several favorable, and one adverse, reports have been made upon its merits.

The adverse report fully admits that the facts, as above stated, are sustained by Captain Rogers, of the ship Charles Wharton; Captain Gatewood, of the United States cutter Jackson, and by Captain Evans, of the volunteers, who were on board at the time and personally cognizant of the facts about which they testify. But the committee thought that testimony, although entirely credible upon its face, was inconsistent with the reports of the quartermaster general and surgeon general, the latter of whom was in command of the troops on board the ship, and says, in his report, that the men were all taken off by the schooner Rubicon and the sloop Washington. The report says, "It is exceedingly difficult to reconcile this conflicting testimony," but comes

to the conclusion that the testimony of the commander of the t ought to prevail. This report was made in 1845.

In June, 1850, General Lawson, after stating the circumst which led to the error in his previous report, says, "Having made satisfied by Lieutenant Peters, that the vessel which to troops from the wreck to the cutter, inside the bay, was the Co Trader, I take pleasure in recommending that the services of Ca Smith, the master, be suitably rewarded."

As this statement removes all doubt as to the performance of th vice, the committee report the accompanying bill.

CONGRESS, [SENATE.] REP. COM.
st Session. No. 364.

IN THE SENATE OF THE UNITED STATES.

JULY 24, 1854.—Ordered to be printed.

Mr. SLIDELL made the following

REPORT

[To accompany Bill S. 430.]

: *Committee on Foreign Relations, to whom was recommitted the report eretofore made by them on the first instant, in the case of Henry S. Sanrd, together with some additional documents, have reconsidered the same, nd now submit the following supplemental report:*

'hat, in consideration of the vast amount of duty which necessarily olves upon the secretary of legation at Paris, as evidenced by the 'espondence of Mr. Rives, submitted to them, the committee are sfied that the charges for clerk-hire paid by the memorialist, while 'etary of legation at Paris, are reasonable, and should be allowed. ey therefore submit an amendment to the bill heretofore reported by n in this case, and recommend its adoption.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 365.

IN THE SENATE OF THE UNITED STATES.

July 24, 1854.—Ordered to be printed.

Mr. Gwin made the following

REPORT.

(To accompany Bill S. 469.)

The Committee on Naval Affairs, to whom was referred the memorial of Lewis Warrington, jr., purser United States navy, asking to be allowed the difference between the pay of a purser of a frigate and that of a first class steam frigate while employed on board the steamship Mississippi, submit the following report:

The memorialist sets forth that he was ordered in May, 1845, to the steam frigate Mississippi, which vessel was then rated as a frigate and had been so from the time she was placed in commission in 1842. In June, 1845, about one month after the memorialist joined said ship, the Secretary of the Navy disrated her by ordering her to be considered a first class steamer, which greatly reduced the pay of your memorialist without changing his duties or responsibilities. The Secretary of the Navy, on the 22d November, 1850, reversed the order of June, 1845, rating the Mississippi again as a frigate. The change in the rate of this vessel by the Navy Department has prevented the memorialist from receiving the pay that his successors and predecessors have received for performing exactly the same service.

Your committee cannot deem this just, and consider the memorialist equitably entitled to the pay that belongs to a frigate, and herewith submit a bill authorizing the accounting officers of the treasury to allow Purser Lewis Warrington, jr., the pay of a purser doing duty on board a frigate, during the time he was employed on board the steam frigate Mississippi.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 366.

IN THE SENATE OF THE UNITED STATES.

July 25, 1854.—Ordered to be printed.

Mr. Mallory made the following

REPORT.

[To accompany Bill S. 470.]

The Committee on Naval Affairs, to which was referred the petition of lieutenants in the United States Revenue Marine service, who were attached to the United States naval squadron in the West Indies, during the Florida war, in 1836, 1837, 1838, *and* 1839, *praying to be allowed the same compensation as officers of like grade in the navy, have had the same under consideration, and report:*

That Lieutenants Osmond Peters and George Clarke, lieutenants in the United States marine service, allege that they, with other officers of their corps, were placed under the orders of the Secretary of the Navy, for duty in the Gulf of Mexico during the Seminole hostilities in Florida and the Mexican war, and that they did perform, while thus detached from their own duties as revenue officers, and acting in connexion with the navy, and under the orders of its Secretary, valuable public services. That their duties, while thus detached, and acting as naval officers, entailed upon them greatly increased expenditures, and exceeded their pay.

The memorialists have heretofore appealed to Congress, and the merits of their case seem to have been thoroughly investigated. Bills for their relief were severally reported in the Senate by Mr. Davis, from the Committee on Commerce, 2d session, 26th Congress; by Mr. Woodbury, from the same committee, 2d session, 27th Congress; by Mr. Bayard, from the same committee, 1st session, 28th Congress; and by Mr. Bayard, from the same committee, 2d session, 28th Congress.

These bills were never acted upon, and the memorialists are still without relief.

Your committee is entirely satisfied that many officers of the revenue were taken from their legitimate duties, assigned to the Navy Department, and did co-operate with the navy upon the occasions referred to. The public records, official dispatches of military and naval commanding officers, &c., render this fact notorious. And it is equally satisfied that the expenses of officers while thus co-operating with the navy, at a distance from their stations and families, are ever, and must necessarily be, increased.

Under these circumstances, are the memorialists entitled to r

Their pay was regulated and determined with reference to t ties, which are usually performed in or about port—certainly v collection district, and within the daily reach of their homes an lies. These duties are onerous and responsible, and essential due protection of the revenue. Their pay was not assimilated regulated by, that of naval officers, but based upon the charact sphere of their duties, which are essentially civil, and limited several collection districts of the country. They were not or or designed as a branch of the naval defences of the country, no they ever been so regarded—receiving an appointment durin behavior from the President, without the concurrent action of th ate; and they are not entitled to pensions, bounty lands, or othe lar relief extended to the members of the two branches of our n defences.

The ninety-eighth section of the general revenue act of Ma 1799, entitled "an act to regulate the collection of duties on i and tonnage," United States Statutes at Large, vol. 1, page (determining the number and grade of these officers, provides "t said revenue cutters shall, whenever the President of the United shall so direct, co-operate with the navy of the United States, which time they shall be under the direction of the Secretary Navy; and the expenses thereof shall be defrayed by the agents Navy Department."

Though this proviso embraces the vessels only, it has ever be strued by the department to include the officers, and they hav from time to time, assigned to duty with the navy.

The act of February 25, 1799, entitled "an act for the augm of the navy," (United States Statutes at Large, vol. 1, page 6 thorized "the President to place on the naval establishment" cutters, &c., "*and thereupon the officers and crews of such vessel allowed, at the discretion of the President of the United States, the sistence, advantages, and compensations, proportionably to the rat vessels, and shall be governed by the rules and discipline which are, shall be, established for the navy of the United States.*"

The act of April 18, 1814, entitled "an act granting pensio officers and seamen serving on board the revenue cutters," i cases, (United States Statutes at Large, vol. 3, page 127,) pro placing the "officers and seamen of the cutter service, wounde abled while co-operating with the navy, upon the navy pensio an equal footing with the officers and men of the navy in like

Upon inquiry at the Navy Department as to its practice cases, the Secretary, in his letter of July 17, 1854, says:

"The Fourth Auditor informs me that he has not been abl cover any case except one, and he believes there is no other, an officer of the revenue service has been allowed naval pay v operating with the navy. The single case to which he allude of Captain Ezekiel Jones, formerly of the revenue service, ceived the difference between the pay and rations of a comm a revenue cutter and those of a lieutenant commanding in under a special act passed for his relief on the 3d March, 18

The case of Ezekiel Jones, to which the secretary alludes, differs in) respect from that of other officers of his corps serving with the navy - and since the date of his service; and upon the presentation of it to ongress, the following special report was made and a bill passed for lief.

HOUSE OF REPRESENTATIVES, *January* 27, 1838.

-. INGHAM, from the Committee on Naval Affairs, made the following report:

e Committee on Naval Affairs, to which was referred the petition of Ezekiel Jones, respectfully report:

The petitioner states that, in obedience to orders from the President the United States, as contained in letters from the Secretaries of the easury and the Navy, of the 6th and 9th of January, 1836, he being n in command of the revenue cutter "Washington," sailed for mpa bay, and served in conjunction with the navy of the United ates until the 9th of July, 1836, when he was relieved and ordered the Portland station; that as he was, during this period, acting with e naval force of the United States, and was in fact a part of it, and bject to all the increased expense of an officer of the navy in like mmand; and, having faithfully discharged all his duties, he believes mself honestly entitled to the pay of an officer of like rank in the avy, and he therefore prays that the same may be allowed him.

The facts are fully proved, as appears by the accompanying documents marked A, B, C, D, and E.

By the 12th section of the act of the 1st July, 1797, the President is uthorized to increase the strength of the revenue cutters, and to cause iem to be employed in defending the sea coast, &c.; and by the act f 25th February, 1799, entitled "An act for the augmentation of the avy," the President was authorized to place on the naval establishient and employ accordingly any of the revenue cutters which had een increased in force under, and in virtue of, the above mentioned ct, and to allow the officers and crews of such vessels, at his discreion, the pay, subsistence, and advantages, proportionably to the rates f such vessels.

By the 98th section of the act of the 2d of March, 1799, it is proided that the revenue cutters shall, whenever the President shall so irect, co-operate with the navy, during which time they shall be under he direction of the Secretary of the Navy, and the expenses thereof hall be defrayed by the Navy Department.

The act of the 25th February, 1799, above referred to, seems to proeed on the ground of making compensation, in some measure, accordig to the character or grade of the services rendered, and it is difficult o see why it ought not to be so.

The amount of salary varies with the rank or grade of those who ay be entitled to it, not because they are of different grades, but beause the services to be performed are of a different character. A ost captain is entitled to receive four thousand dollars per annum; not

because he is post captain, but because of the nature of the duties and the high responsibilities which are imposed upon him by law, as such and which he is bound to perform. The service is that to which the compensation has reference, and not the rank of the officer by which it is rendered. This view of the subject is fully sustained by the spirit of the act of 3d March, 1835, to regulate the pay of the navy, in which it is declared that "officers temporarily performing the duties belonging to those of a higher grade, shall receive the compensation allowed to such higher grade while actually so employed."

It appears that the petitioner, while serving in conjunction with the naval force, in the manner stated, rendered essential service to the country, and performed all the duties assigned him with great fidelity and ability, for which he deserved and received the highest commendations of his superiors in command.

The committee are, therefore, of opinion that the petitioner is justly entitled to the same pay to which an officer of like grade in the navy would be entitled for like services, and therefore report a bill:

Be it enacted, &c., That the proper accounting officers of the treasury be, and they are hereby, authorized to allow to Ezekiel Jones, for his services as commander of the revenue cutter Washington, while acting in conjunction with the navy of the United States, in 1836, the same amount of pay as a lieutenant in the navy would be entitled to receive for like services, deducting therefrom the sum which he has already received therefor.

Approved March 3, 1839.

Your committee is unable to account for the non-compliance of the proper accounting officers of the government with the provisions of the act of 25th February, 1799, above recited; but the Secretary of the Navy's letter shows that it has been inoperative. It is the every day practice of Congress to compensate the employees of the country for all services performed beyond those of their special office, by extra compensation; and, upon this point may be cited the extra pay to the exploring squadron; to Lieut. Maury of the observatory; to Lieut. Dahlgren of the ordnance; to Lieut. Herndon of the Amazon exploration; to the California squadron; to officers doing duty as pursers; to navy agents acting also as pension agents, &c.

These frequent acts of relief are placed upon the ground that all salaries, pay, and emoluments, are based upon official duties and responsibilities.

The pay of a revenue captain is twelve hundred dollars per annum. (and the pay of the lieutenants is graduated by his) was doubtless determined by the consideration that his duties, circumscribed by a collection district, and performed under the immediate orders of the collector of the customs, could rarely incur responsibility, and that they belonged to the civil, and not the military, department of the government, and the pay of a naval lieutenant—which grade, in several respects, is more analogous to that of the revenue captain's than any other of the navy—was probably fixed at $1,500 per annum in view of the wider sphere and more responsible character of his duties.

When the officers of the revenue marine are called upon to co-operate with the navy, therefore, it seems but reasonable that, with their increased duties and responsibilities, they should receive the increased pay.

Your committee has deemed it proper to report a general bill, whose provisions are designed to embrace not only the case of the memorialists, but the officers of their branch of the public service generally; and, therefore, adopts the bill brought forward in the Senate by Mr. Woodbury in 1841, and subsequently by Mr. Bayard in 1844.

A BILL

Increasing the pay of certain officers of revenue cutters while serving in the navy of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President of the United States shall deem it for the public interest that any portion of the officers and seamen belonging to the revenue cutter service shall be attached to or co-operate with the naval service of the United States, and shall order them to so act and co-operate with said naval service, said revenue cutter officers, while performing such duty, shall receive, in lieu of the pay and emoluments now provided by law, the pay hereinafter provided, viz: All such revenue cutter officers of the rank of captain, in said service, shall receive *at the rate of* fifteen hundred dollars per year; all such officers of the rank of first lieutenants, *at the rate of* twelve hundred dollars per year; all such officers of the rank of second lieutenants, *at the rate of* eleven hundred dollars per year; and all such officers of the rank of third lieutenants, *at the rate of* ten hundred dollars per year; which said sums shall be all the pay, emolument, or allowance, made to such officers while so employed, except one ration each per day.

SEC. 2. *And be it further enacted*, That all officers of said revenue cutter service, who may have been, since the thirty-first day of December, one thousand eight hundred and thirty-five, ordered to co-operate with the naval service of the United States, and have actually so co-operated, and the heirs and legal representatives of such deceased officers as may have so co-operated with the naval service since the said last-mentioned period, shall be entitled to receive the additional pay provided in the first section of this act, during the time said officers were so employed: *Provided, however*, That such officers as have heretofore received any additional pay or emolument, on account of such service, shall not be entitled to the retrospective benefit of this act, unless the amount of such additional pay or emolument was less than that allowed by this act.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 367.

IN THE SENATE OF THE UNITED STATES.

July 26, 1854.—Ordered to be printed.

Mr. Brodhead made the following

REPORT.

[To accompany Bill S. 468.]

The Committee of Claims, to whom was referred Senate bill No. 468, *entitled "a bill for the relief of David F. Douglass, late marshal of the northern district of California," have had the same under consideration, and report:*

It appears from the papers accompanying the bill, that Mr. Douglass, while exercising the office of marshal for the northern district of California, paid, during the session of the district court, to his bailiffs and crier a per diem of six dollars each. The charges were allowed by Judge Hoffman, who held the court; and he gives, as the reason for the allowance, his belief that the sums charged were actually paid, and his personal knowledge that the services of respectable and competent persons could not, in that country, be obtained at a lower rate.

The marshal's account was disallowed by the accounting officers, as the law allows only $2 per day for such services.

It is evident that it was necessary that the court should be attended by bailiffs and a crier, and the comptroller, in passing upon this account, says, "that the number employed was even less than the law authorized, so that there has not been a design to be extravagant." But as the accounting officers have no discretion in such cases, and as it is satisfactorily shown that the money was actually, necessarily, and prudently expended, and with the full sanction of the court, the committee believe that the relief proposed in the bill ought to be granted; they therefore recommend its passage.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 368.

IN THE SENATE OF THE UNITED STATES.

July 24, 1854.—Ordered to be printed.

Mr. Butler made the following

REPORT.

[To accompany Bill S. 471.]

The Committee on the Judiciary, to whom was referred the memorial of J. H. F. Thornton, Lawrence Taliaferro, and Hay T. Taliaferro, praying to be released from their liability as sureties of D. M. F. Thornton, late a purser in the navy of the United States, have had the same under consideration, and report:

From satisfactory evidence before the committee it appears that D. M. F. Thornton was appointed a purser in the navy of the United States in the year 1825; that in July, 1827, he entered into bond with the United States, in the penalty of $25,000, with John H. F. Thornton, Charles Thornton, Cole Fitzhugh, George H. F. Thornton, Francis Taliaferro, William T. Thornton, and Hay Taliaferro as sureties; that in the same month he was ordered to the sloop Erie, and was detached from said vessel in July, 1829. In September, 1829, a new bond was executed in the like sum of $25,000, with Hay Taliaferro and J. H. F. Thornton as sureties. From the date of this bond to the period when the memorialists became his sureties, Purser Thornton received from the Navy Department, the following orders, viz:

October, 1830. Receiving ship at Norfolk.
July, 1831. Be ready for orders to the sloop Warren.
March, 1832. Be ready for sea service.
August, 1833. Ordered to the sloop St. Louis.
September, 1833. Previous orders revoked.
June, 1834. Ordered to the sloop John Adams.
May, 1837. Detached and leave.

That in the year 1840 a new bond was executed by Purser Thornton, with the memorialists as sureties. From this date to the execution of the fourth, in 1846, Purser Thornton received from the Navy Department, the following orders, viz:

November, 1841. Be ready for the frigate Columbia.
December, 1841. To the frigate Columbia.
May, 1842. Detached, and ordered to the frigate Constitution; transferred from the Constitution to the Brandywine.
September, 1845. Detached from the Brandywine and leave.

After the execution of the fourth bond, on which the memorialists

were also his sureties, Pursur Thornton received the following orders from the Navy Department, viz:

July, 1847. To the Norfolk yard.

October, 1849. Detached on the first November, 1849.

From an official statement made by the Fourth Auditor of the Treasury, it appears that in October 1840, an official balance was declared against Purser Thornton of $5,136 19. That on the 6th November 1846, a balance of $28,597 46 was declared against him; and that on 22d of July, 1850, a balance of $2,149 51 was declared against him under his bond of 1827.

The Fourth Auditor further states, "It does not appear from the books of this office that any public money, for disbursement, was placed in his hands between the execution of his official bond on the 3d of September, 1840, and the declaration of the above-mentioned balance of October 15th, 1840, or between the execution of his bond of March 30th, 1846, and the declaration of the balance of November 6th, 1846."

It thus appears from the above statement that at the time of the execution of the third bond, that Purser Thornton was a defaulter to the amount of $5,136 19, and at the time of the execution of the fourth bond, he was a defaulter to the amount of $28,597 46.

That notwithstanding this large amount being declared against him Purser Thornton was ordered to duty in direct violation of law, and the regulations of the Navy Department. One of the latter declares "Before a Purser can receive *orders* to join a ship or station, or be removed from one ship or station to another, he must produce a certificate from the Fourth Auditor of the Treasury, or other satisfactory evidence that he has settled up his accounts for the last ship or station to which he belonged, and the balance against him does not exceed one thousand dollars."

The questions involved in this case, and the grounds on which the memorialists ask to be released from their liability, have been well considered in a report made by the Hon J. A. Pearce, in the House of Representatives, 27th Congress, 2d session, in the case of Richard Coke, jr., and others. As it states the law very clearly it is herewith appended as a part of this report.

IN THE HOUSE OF REPRESENTATIVES.—JULY 21, 1842.

The Committee on the Judiciary, to whom was referred the petition of Richard Coke, jr., Robert Anderson, and George W. Southall, report:

That the petitioners seek to be relieved, in part, from their liability as sureties of Peyton A. Southall, late a purser in the navy of the United States. The facts of the case have been carefully inquired into by the committee, and found to be as follows:

In April, 1832, Peyton A. Southall was appointed a purser in the navy, and the petitioners became the sureties in his official bond, with penalty of $25,000. Immediately after the execution of this bond

Mr. Southall was attached to the schooner Experiment, then about to proceed to the West India station, on board of which vessel he continued in the capacity of purser until about the 9th July, 1835, rather more than three years. During this period considerable sums of money were placed in the hands of the said purser, who did not render his accounts according to the requirements of the law or the regulations of the naval service; nor was a settlement of his accounts had until nearly a year after the completion of his cruise, to wit: in May, 1836, when a balance of $4,458 62 was found due by him to the United States. In June, 1836, Mr. Southall made a payment of $2,500 to the government, which still left him a defaulter, without explanation or excuse, to the amount of $1,958 62. While that debt remained unpaid he was ordered to the sloop Boston. During the cruise of the Boston, and afterwards, he again neglected to render his accounts regularly, and, upon a settlement had in May, 1840, he was found indebted to the United States in the sum of $43,159 17, including the former balance of $1,958 62. He was *then* promptly dismissed from the service, and suit was brought againt the sureties.

The petitioners ask to be released from the payment of all this sum for which suit has been brought against them, except the former balance of $1,958 62, and for these reasons: among the regulations of the naval service, issued in 1818, is one in the following words: "*Before a purser can* receive orders to join a ship or station, or be removed from one ship or station to another, he must produce a certificate from the Fourth Auditor of the Treasury, or other satisfactory evidence, that he has settled up his accounts for the last ship or station to which he belonged, and that the balance against him does not exceed one thousand dollars." This regulation was directly disregarded in the appointment of Mr. Southall to the Boston while he was a known defaulter, as purser of the Experiment, to an amount nearly double the limit expressed in the regulation above mentioned.

The act of January 31, 1823, requires every officer or agent of the United States, who shall have received public money which he is not authorized to retain, to render his accounts quarter yearly, within three months after each successive quarter, if resident within the United States, and within six months, if resident in a foreign country. The same act provides that every officer or agent who shall not comply with that requirement shall, by the officer charged with the direction of the department to which such officer or agent is responsible, be promptly reported to the President of the United States, and dismissed from the public service, unless he shall account, to the satisfaction of the President, for such default.

The accounting officers appear to have performed their duty in this case, but the committee have not been able to ascertain why the regulations of the naval service and the imperative requirements of the law were not enforced against Mr. Southall. His appointment to the sloop Boston was clearly in violation of both.

Cases may occur where the defalcation arises from accident and misfortune, not affecting the competency and honor of the officer. In such the forbearance of the Secretary to enforce the regulations of the service, or of the President to dismiss the officer, according to the require-

ment of the law, may be justifiable, and, indeed, every way proper. But the committee cannot ascertain that any such circumstances justified the forbearance towards Mr. Southall, whose case appears to be such as called for the enforcement of the law. They therefore think that the lenity shown him (so far as the facts before the committee authorize a conclusion) was inexcusably injurious to the government and the sureties, affording the delinquent, as it did, fresh opportunities of wasting the public money, and subjecting the petitioners to further liabilities which otherwise they would have avoided.

The Boston retured to the United States in May, 1839. During this cruise Purser Southall again neglected to render his accounts, and it was not until July, 1840, that a settlement with him was had at the Treasury, although he had been repeatedly called on by the Fourth Auditor, who had as often reported his default. From the copy of the account then made up, it appears that in October, 1839, after the return of the Boston from her cruise, Purser Southall, then a known defaulter, as purser of the Experiment, who had been ordered to the Boston, in violation of the laws and rules of the navy, and whose accounts during his last service had not been rendered as his duty required, was furnished with the sum of $40,025, which the regular rendition of his accounts would have shown not to be wanted for the service if the other funds in his hands had been properly applied.

It is believed that, between individuals, if a principal should make advances to his agent, after the infidelity of that agent was known to him, the guarantees of such agent would be released from any liability for advances so made. This principle seems to the committee equitable as between the government, its officers, and their sureties. Besides, in this case the sureties had a right to expect that the laws and regulations of the navy would be enforced, or at all events that they should not be injured by the neglect to enforce them.

These provisions of the law and the navy regulations, it is presumed, were intended to be enforced according to these terms; and not meant merely *in terrorem* to the officer, or only as a trap to the sureties.

If so, the petitioners had a right to confide in their enforcement, and the neglect to apply them in Mr. Southall's case furnishes a good and equitable defence to his sureties.

Your committee therefore report a bill.

As a precedent, the foregoing report will afford sufficient authority for this committee to recommend that the present memorialists be released from their bond. Indeed, the present case is much stronger than the one referred to, showing a degree of laches on the part of the government, in disregarding positive law and the rules of the navy, by which the memorialists allege they were deceived. If disclosures had been made by a compliance with the law and rules of the Navy Department, your memorialists would have had such information as would have forbidden them, as prudent men, from going upon the bonds.

It appears that, from 1829 to 1850, a period of twenty-one years, that Purser Thornton was a defaulter, and a declaration of the fact was not made until this period of time had elapsed; and it shows when *these* memorialists became his sureties on the third bond, that he was a

lter to the amount of $5,136 19, and on the fourth bond, to the nt of $28,597 46.

ır committee are, therefore, of the opinion that these memorialists l be released from their liability as sureties, incurred on the bonds rser Thornton, dated on the 1st September, 1829, 3d September, and 30th March, 1846, leaving the liability of the sureties on the of 1827 to pay the same, when properly called upon by the de-ent. The sum for which they appear to be liable amounts to 9 51; these memorialists not being upon that bond, they are not affected by any decision in the case referred to.

IN THE SENATE OF THE UNITED STATES.

JULY 26, 1854.—Ordered to be printed.

Mr. MALLORY made the following

REPORT.

e Committee on Naval Affairs, to which was referred the memorial of E. A. Williams and W. D. Ligon, have had the same under consideration, and report:

From the statements of the memorialists, it appears that W. H. ennon was commissioned a purser in the navy and gave his bond in e usual form, (vide acts of 30th March, 1812, and 1st March, 1817,) on which they, with G. T. Kennon, were sureties.

Purser Kennon was ordered to the United States frigate Mississippi, d performed the duties of purser of that ship under Commodore rry in the Gulf of Mexico during his operations in the Mexican war.

On the adjustment of his accounts at the treasury upon the termina- n of his cruise, he was found to be indebted to the United States in e sum of $8,678 16, for which sum suit was instituted in the circuit urt of the United States for the eastern district of Virginia, and judg- ent was rendered for this sum with interest from 10th December, 49, and costs.

Purser Kennon, the principal, one of the parties defendant, pleaded bar that he was an infant when the bond was given; upon which ea the United States submitted to a non-suit as to him. George T. ennon, one of the sureties, proved to be insolvent, and of him nothing uld be recovered; and the memorialists, soon after the rendition of e judgment, paid into the treasury, under protest, $7,250 on account f it, declaring their purpose to appeal to Congress for relief, and there- pon the United States district attorney procured a stay of execution or the balance, to afford time for this application.

The memorialists base their prayer for relief upon the allegation that urser Kennon performed extra services, having to pay the crews and urnish supplies to other vessels and boats of the squadron hurriedly quipped and ordered away, and had to make many purchases and disbursements under circircumstances which rendered the procurement of vouchers almost impossible; and letters are produced from several officers of the squadron, Commodore Perry included, to sustain this allegation.

The commodore's letter is as follows:

WILLARDS' HOTEL, WASHINGTON, D. C.
Monday evening, March 29, 1852.

MY DEAR SIR: I have this moment received your letter of to-day, and having to leave the city early in the morning, must reply very briefly to your inquiries.

Mr. Kennon, late a purser in the navy, while serving under my command in the Mexican war, was frequently called upon by the nature and necessities of the service in which we were engaged to perform duties, and assume responsibilities not required of pursers in the ordinary routine of their proper official avocations, and consequently he was subjected to extra responsibilities and risk; hence it may fairly be inferred that he was either entitled to additional compensation, or at least to some latitude in the settlement of his accounts; and I am clearly of opinion that there is a fair claim on the part of his sureties for reasonable indulgence from the government.

Respectfully, your obedient servant,
M. C. PERRY.

Hon. R. K. MEADE.

Upon a reference to the Navy Department of the memorial and accompanying papers, and inquiring as to the character of the duties devolved upon Purser Kennon, and in reply to a special inquiry whether the duties which he was called upon to perform were unusual, onerous, or such as precluded him, with the exercise of ordinary diligence, from keeping and rendering accounts and vouchers in accordance with the usages of the department, the following letter was received from the Secretary of the Navy:

NAVY DEPARTMENT,
July 17, 1854.

SIR: Your letter of the 13th instant asking for information respecting the duties of Mr. Kennon, "as purser of the Mississippi during the Mexican war," was referred to the Fourth Auditor of the Treasury, who reports to me as follows:

"I respectfully state that there is no evidence on the files of this office to show that the duties of Purser Kennon, during the year and a half that he was on board the United States stream-frigate Mississippi, were more varied or onerous than might reasonably be expected to devolve on the purser of the flag-ship of a squadron in time of war. Doubtless many transfers were made of stores and money to other vessels, but when such transfers were made, Mr. Kennon had only to take receipts from the disbursing officers of those vessels, upon the production of which he would receive credit for the amount. He did not act as purser of any vessel except his own. I know of no peculiarity in his situation, nor any cause arising out of the regulations or instructions to which he was subject, that would have prevented him, with the exercise of due diligence, from keeping and rendering accurate accounts of his disbursements."

I have the honor to be, very respectfully, your obedient servant,
J. C. DOBBIN.

Hon. WM. M. GWIN,
Chairman Committee on Naval Affairs, U. S. Senate.

· committee has discovered, in the individual suffering and per-
mbarrassment connected with this case, much to commend it to
ıle consideration; but the committee, after carefully considering
unds upon which the memorialists base their application, and
timony presented to sustain them, have failed to discover their
ncy to authorize the relief prayed. Mr. Kennon was called upon,
ıer of the flag-ship, to perform those duties, and those only, which
y pertained to that post during the operations of the ship and
on against the enemy. It was his duty to take vouchers for
lisbursement of any class; nor could he have been called upon,
ıny circumstances, to disburse money or merchandise but upon
ions or calls made upon him in due form, and receipts properly
or them.

er all the circumstances of the case, your committee reports that
yer of the memorialists ought not to be granted.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 370.

IN THE SENATE OF THE UNITED STATES.

July 26, 1854.—Ordered to be printed.

Mr. Slidell made the following

REPORT.

The Committee on Foreign Relations, to whom was referred the petition of the executrix of William W. Chew, deceased, late secretary of legation and acting chargé d'affaires at St. Petersburg, have had the same under consideration, and now respectfully report:

The testator of the petitioner presented a petition in his life-time, asking to be allowed an outfit, in addition to his salary as chargé d'affaires, in consideration of his having been accredited as such at St. Petersburg, during the period that elapsed between the departure of Mr. Dallas and the arrival of Mr. Cambreleng as minister at that court. There does not appear to have been any report thereon by either House of Congress, and the same petition has been renewed by his executrix since his death.

The committee do not find that such allowance has been made, as a matter of course, to a chargé d'affaires *ad interim*. It has been allowed in some few instances, where the duties were discharged for a long period, and when it appeared that they were of a character really entitling the officer to some compensation additional to the difference in salary between that officer and the salary of a secretary of legation.

On inquiry at the Department of State, and by reference to the correspondence there of Mr. Cambreleng and Mr. Todd, the successors of Mr. Dallas, it does not appear that such was the case in regard to the services of Mr. Chew, (referred to in the letters of the Secretary of State to Mr. Slidell, of this committee, dated, respectively, the 14th and 17th July, 1854, and filed with the petition.)

The committee are therefore of opinion that the prayer of the petition should not be allowed.

IN THE SENATE OF THE UNITED STATES.

July 28, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 473.]

The Committee on Foreign Relations, to whom was referred the memorial of Horatio J. Perry, secretary of legation at Madrid, praying compensation as chargé d'affaires for the several periods during which he acted in that capacity, have had the same under consideration, and now report:

That the memorialist represents that, acting under the instructions of he Secretary of State, and by order of the President of the United States, he has been called upon to serve the government as their diplomatic representative near the court of Spain, during the following periods, viz: From the 3d July to the 24th October, 1852; from the 11th May to the 21st June, 1853; and from the 4th September to the 22d October, 1853—making an aggregate of six months and twenty-two days, during which he has only received the compensation of a secretary of legation, and asks that he may be allowed the difference between it and the compensation of a chargé d'affaires, for the time he hus acted.

The memorial is accompanied by a letter from the Secretary of State, addressed to the Hon. Mr. Norris, United States Senate, dated 14th July, 1854, in which he says:

"At the request of Mr. Perry, secretary of the legation of the United States at Madrid, I transmit his petition to Congress for compensation as chargé d'affaires at times when he discharged the duties of that office. I believe the statements in the petition are correct."

The committee, regarding the claim as just and reasonable, report a bill in favor of the memorialist and recommend its passage.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 372.

IN THE SENATE OF THE UNITED STATES.

July 28, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 474.]

The Committee on Foreign Relations, to whom was referred the petition of Robert M. Walsh, late secretary of the United States legation in Mexico, have had the same under consideration, and now report:

That the petitioner represents that from the 1st of November, 1848, to the 1st of February, 1849, he acted as chargé d'affaires of the United States in Mexico, during the absence on leave of Mr. Clifford, the United States minister to that republic, and that he again acted in the same capacity from the date of Mr. Clifford's recall until the arrival of his successor, Mr. Letcher, a period of five months. That on those occasions he was regularly presented to the Mexican government as chargé d'affaires, and as such, charged with all the duties and responsibilities of the mission. That after his return to the United States, in 1849, he applied to Congress for the difference between the pay of a secretary of legation and that of a chargé d'affaires, which had always been allowed under similar circumstances, amounting to $1,666 66, of which he received, under the provisions of the general civil and diplomatic appropriation act of March 3, 1851, one-half the amount claimed, viz: $833 33⅓.

In support of his claim he refers to the act aforesaid, and files a letter from the Secretary of State, addressed to the Hon. John A. McClernand, chairman of the Committee on Foreign Affairs of the House of Representatives, dated 21st of December, 1851, which fully sustains the statements of the petition; and the secretary adds: "The merits of claims of this character must depend on circumstances. The duties of the mission of the United States at Mexico are at all times arduous and important; and Mr. Walsh's dispatches to the department show that he faithfully discharged them. The expenses of living in that city are high, and the expenses of the secretary of legation are necessarily increased, when, through any cause, he is left at the head of the mission. The statements of Mr. Walsh's letter, (petition,) are correct, and the circumstance of his having been presented by the minister as chargé d'affaires *ad interim*, pursuant to instructions of this department, would seem to warrant a favorable consideration of his claim for an outfit."

An examination of the precedents in similar cases, has satisfied the

committee that the usual practice heretofore has been to grant to secretaries of legation temporarily performing the duties of chargé d'affaires, during the absence of the minister, the compensation of chargé d'affaires, though not to allow them an outfit except in special and peculiar cases. Why it was that the thirty-first Congress departed from the usual custom in the case of Mr. Walsh, they have been unable to ascertain, and regarding this case as standing upon the same basis with numberless others of a similar character, in which the full compensation has been allowed, the committee can see no good reason for making a discrimination against this claimant, and they according report a bill for an amount, which, with the sum heretofore received by him, will make up the full difference between the compensation of a secretary of legation and that of a chargé d'affaires for the time he acted n the latter capacity, and recommend its passage.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 373.

IN THE SENATE OF THE UNITED STATES.

July 26, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

(To accompany Bill S. 475.)

The Committee on Foreign Relations, to whom was referred the memorial of George W. Lippett, United States consul at Vienna, praying compensation for diplomatic services alleged to have been rendered by him, have had the same under consideration, and now report:

It appears from a letter of the Secretary of State, dated July 17, 1854, in answer to inquiries made by the committee, that from the 13th October, 1852, on the return to the United States of Mr. McCurdy, our chargé d' affaires at Vienna, to the 10th December following, when Mr. Foote, his successor, was presented, the archives of the legation were left in the hands of the memorialist; and that, from the recall of Mr. Foot, on the 21st May, 1853, till the arrival of his successor, Mr. Jackson, on the 13th of September of the same year, the memorialist was again left in charge of the legation; and the secretary adds: "The services he rendered are regarded as useful and necessary; and, although he was not charged with any special diplomatic duties, he had occasion, during the intervals in which he had charge of the property of the legation, to correspond with the minister of foreign affairs, on official matters; and the position in which he was placed exposed him, it is presumed, to expenses, such as would not have been incurred under other circumstances, and such as Congress has on several occasions seen fit to reimburse."

The committee regard this case as resting on the same basis of others in which compensation has been allowed, and therefore report a bill for the relief of the memorialist, and recommend its passage.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 374.

IN THE SENATE OF THE UNITED STATES.

July 28, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 476.]

The Committee on Foreign Relations, to whom was referred the memorial of Henry Savage, United States consul at Guatemala, praying compensation for diplomatic services alleged to have been rendered by him, have had the same under consideration, and now report:

In a letter from the Secretary of State, dated 13th February, 1854, in answer to one of inquiry by the Hon. Thomas H. Bayly, chairman of the Committee on Foreign Affairs of the House of Representatives, it is stated:

That "from early in 1830 until towards the close of 1833, Mr. Henry Savage corresponded with this department in a diplomatic character, and, as during that period there was no chargé d'affaires of the United States in that republic, he assumed the functions of that agent."

"It also appears that from the spring of 1842, say April or May, until the 17th November, 1848, Mr. Savage acted as chargé in the absence of any accredited agent to Central America."

"He has also corresponded with this department from the 10th May, 1850, until the present time, during which period there has been no accredited representative of the United States to the republic of Guatemala, and the archives and property of the former legation in Guatemala have been almost constantly in his care."

"The only communication on record in the department addressed to him in relation to his diplomatic correspondence is by Mr. Buchanan, under date of 3d June, 1848, which acknowledges the receipt of letters from the 18th June, 1842, to 20th March, 1848, and adds, 'These letters have furnished the department with most acceptable information upon the subject of Central American affairs within the periods mentioned, for which I offer you my hearty thanks."

It may be proper to state further, that the information communicated to the department by Mr. Savage has always been interesting and important.

From the character of the services rendered by the memorialist, as represented by the secretary, the committee do not feel authorized to regard him as a regular diplomatic agent of the United States; but yet, in view of the importance of those services to the interests of our gov-

ernment, and of the time and labor which the memorialist mus expended in their performance, they feel disposed to allow one sand dollars per annum for the period during which he was en therein, which they believe to be a reasonable compensation, un the circumstances, and report a bill accordingly.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 375.

IN THE SENATE OF THE UNITED STATES.

July 28, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 477.]

The Committee on Foreign Relations, to whom was referred the memorial of J. B. Holmans, late United States secretary of legation in Chili, praying additional compensation for extra clerical duties performed by him, have had the same under consideration, and now report:

It is stated in the memorial, that from the 16th February, 1850, to the 24th June following, owing to the declension of the office by Mr. Walsh, and the death of Mr. Hardin, his successor, before reaching the post, there was, in fact, no secretary to the United States legation in Chili, and that, consequently, upon the appointment of the memorialist to that office on the 24th June, 1850, in addition to the current duties of the office, he had also to perform all the unfinished business, which had accrued from the 16th February preceeding, and which consisted in recording in the books of the legation the dispatches and letters during the interval above mentioned, whilst there was no secretary present, as well as in indexing the same; and further, that prior to his connection with that legation, none of its records had been indexed, and that he made a full and complete index, not only to the papers of the late minister, Mr. Peyton, but also to those of his immediate predecessor, Mr. Barton, as well as a considerable portion of the early records, which he also would have completed but for ill health, and the large accumulation of new business in the legation, which required his constant attention.

These statements are fully sustained by a letter from Mr. Peyton, our then minister in Chili, dated May 24, 1853, addressed to the memorialist, and also by a letter from the Secretary of State, addressed to the Hon. Thomas H. Bayly, Chairman of the Committee of Foreign Affairs of the House of Representatives, dated February 9, 1854. In his letter, Mr. Peyton says: "inasmuch as you performed the labor, it appears to me just and reasonable that you should receive the compensation attached to the office," &c. And further: "This allowance is rendered more proper on account of the great expense in coming to and returning from Chili, which is but little less than one thousand dollars for the round trip." In his letter above mentioned the Hon. Secretary of State says: "I have to inform you that Mr. Holmans has cor-

rectly stated the fact of the absence, for several months, of any secretary to the legation at Santiago, and from the correspondence of Mr. Peyton, envoy extraordinary and minister plenipotentiary to the republic of Chili, it is evident that Mr. Holman was taxed with the performance of onerous duties, which had accumulated prior to his own appointment."

"In this view of the case I have no hesitation in stating that the department regards Mr. Holmans justly entitled to extra compensation for these extraordinary services."

In view of all the circumstances of this case, the committee are of opinion, that the memorialist is entitled to receive the compensation of secretary of legation, whose duties he is shown to have actually performed from the 16th February, 1850, and inasmuch as from that time to the 24th June, 1850, when he formally entered upon his official duties, that compensation had not been paid to any other person, no injustice can result to the government from its allowance to him; they therefore, report a bill in his favor, and recommend its passage.

3d CONGRESS, 1st Session. [SENATE.] REP. COM. No. 376.

IN THE SENATE OF THE UNITED STATES.

JULY 28, 1854.—Ordered to be printed.

Mr. MASON made the following

REPORT.

[To accompany Bill S. 478.]

The Committee on Foreign Relations, to whom was referred the petition of Peter Parker, secretary of legation of the United States, and Chinese interpreter, praying compensation for his services as chargé d'affaires ad interim, have had the same under consideration, and now respectfully report:

That, in answer to inquiries made by the chairman of the committee, the Secretary of State says, in a letter dated 24th July, 1854, "It appears, from the records and files of this department, that Dr. Parker (the petitioner) was acting as chargé d'affaires *ad interim* during the time specified in his petition," viz: from the 24th May, 1852, to the 31st January, 1853.

The committee, finding nothing in this case to distinguish it from others of a similar character in which such allowances have been made, report a bill in his favor, and recommend its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 377.

IN THE SENATE OF THE UNITED STATES.

July 28, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 479.]

The Committee on Foreign Relations, to whom was referred the petition of Joseph Graham, United States consul at Buenos Ayres, praying compensation for services as chargé d'affaires ad interim at that place, have had the same under consideration, and now report:

That it appears from a letter from the Secretary of State, in answer to one of inquiry addressed to him by the Hon. Thomas H. Bayly, chairman of the Committee on Foreign Affairs of the House of Representatives, dated 9th February, 1854, that "the correspondence of the legation at Buenos Ayres shows that, on the departure of Mr. Pendleton from his post on a special mission to the upper provinces of the Argentine confederation, Mr. Graham was officially announced to, and recognized by, the government of Buenos Ayres, as chargé d'affaires during Mr. Pendleton's absence; and in that character corresponded with the government and with this department from the 3d August, 1852, until the 11th of the following month.

"On the 25th November, 1852, Mr. Pendleton again left Buenos Ayres for the republic of Paraguay, and was absent until the 26th of March following. During this interval Mr. Graham addressed dispatches to this department in the character of chargé d'affaires; and, although there is no evidence on file to show that he was officially presented to the government, it appearst ha the was recognized by it in that capacity."

In view of all the circumstances of this case, and the many similar ones in which the relief here asked for has been granted, the committee are of opinion that the petitioner is entitled to the same measure of compensation extended to others, and report a bill accordingly, with a recommendation that it pass.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 378.

IN THE SENATE OF THE UNITED STATES.

July 28, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 480.]

he Committee on Foreign Relations, to whom was referred the memorial of Ferdenand Coxe, late secretary of the United States legation at Rio de Janeiro, praying compensation for diplomatic services, have had the same under consideration, and now report:

That it appears, from a letter of the Secretary of State, dated 9th ebruary, 1854, in answer to inquiries made by the Hon. Thomas H. ayly, chairman of the Committee on Foreign Affairs of the House of epresentatives, that from the 12th May to the 16th of August, 1853, iring the absence of the minister, Mr. Schenck, on a special mission Buenos Ayres, Mr. Cox was, by authority of the department, charged th the duties of the legation, was recognized by the Brazilian govern- ent as chargé d'affaires *ad interim*, and in that character rendered ch services to the interests of the United States as entitled him, in e estimation of the department, to suitable compensation.

The committee, believing that the claim for the compensation of a argé d'affaires during the period he acted in that capacity, by the thority of the Department of State, is reasonable, report a bill in his or, and recommend its passage.

IN THE SENATE OF THE UNITED STATES.

r 28, 1854.—Ordered to be printed, and that 5,000 additional copies, with the bill, be printed in pamphlet form for the use of the Indian Department.

Mr. JOHNSON made the following

REPORT

[To accompany Bill S. 483.]

e Committee on Territories, to whom was referred the bill to establish and rganize the Territories of Cha-lah-kee, Muscogee, and Cha-ta, having ad the same under consideration, report:

That they have carefully weighed and considered the bill in ques-n, and have made such alterations and amendments therein, includ- a change in the name of one of the proposed Territories, as in their gment were necessary and proper, and they do now recommend its ssage.

In order more fully to extend the protection of the Constitution and rs of the United States over the Cherokee, Muscogee or Creek, Sem-le, Choctaw, and Chickasaw nations or tribes of Indians, and to en-e them to advance in civilization, and hereafter become citizens of United States, the bill, as amended, provides for the erection (with assent of these several nations) into Territories of the country which y own and occupy, and certain other country to be annexed thereto. e Territory of Chah-ta is to consist entirely of the lands owned by olute grant from the United States by the Choctaws and Chicka-rs. That of Muscogee, of those owned by the Creeks and Semi-es, and that of Chelokee of those owned by the Cherokees south of thirty-seventh parallel of north latitude, and the lands west of the ne to the one hundredth parallel of west longitude; and also of the t of country bounded on the south by the northern line of Texas, the north by the thirty-seventh parallel of north latitude, on the east the one hundredth, and on the west by the one hundred and third allel of west longitude; of the narrow strip of country belonging to Osages, between the north line of the Cherokee lands and the thirty-enth parallel of north latitude, and of the small tracts west of Mis-ri owned by the Senacas, the united bands of the Senecas and awnees, and the Qaupaws, if these small tribes consent.

It vests the executive power in a governor for each Territory, to be cted by the people, serve for four years, be commissioned by the sident, and supercede the principal or highest chief of each nation; es each Territory a secretary, to be appointed by the governor, a trict court of the United States, to be held by one judge, a marshal

and attorney, and a delegate to the House of Representatives. vides that nothing contained in it shall be so construed as to al change, alter, or impair the constitution or laws, or the cust usages having the force of law, of either of said nations of Indian annul or interfere with their legislative bodies or judical tribun to lessen or curtail the power and jurisdiction of either; or to the qualifications of voters, or in any way to interfere with their mu affairs, or the mode of enforcing their laws or the judgments courts. It guarantees to them the right to their lands, and their to dispose of them as they please; retain them as national prop divide them among their citizens; and provides that they shall compelled to admit any person to citizenship, except by their o consent evidenced by law.

The legislative authority is to continue to be vested, as at pre the national council of the Cherokees, which consists of a nation mittee, hereafter to be called the House of Representatives and cil, in the general council of the Choctaws and Chickasaw composed of a Senate and House of Representatives; and in t eral council of the Creeks, now a single body, or a council and of Representatives, to be organized under a law enacted by the council. All laws hereafter enacted are required to be writt proportional representation is secured to the Chickasaws and noles.

The governors, secretaries, district judges, marshals, attorne interpreters are to be paid by the United States. The mem each legislature are to be paid three dollars a day and three doll every twenty miles travel, the presiding officers two additional a day, the chief clerk of each house four dollars a day, the as clerk and interpreter three dollars each, and the doorkeeper two a day. But only one session in every two years is to be paid f that for twenty days only; and the council or senate is to be p sixteen members and the house of representatives for twenty-si bers only. The Creek legislature receives no pay until the leg power is vested in two bodies.

Each legislature fixes the qualifications of voters. Power i each to prevent and punish settlements or trespasses, by white Indians, on the lands owned by the respective nations; and wh settling on such lands obtain no right to vote or hold office ex virtue of a law of the Territory. White men settling on that the Chelokee Territory which is not owned by the Indians in th ritory are to have the right to vote and hold office, but can voice in regard to the lands of the different nations or tribes no any share or interest in such lands.

The laws of Arkansas in regard to offences amounting to fel applied to these Territories, and also the criminal laws of the States contained in the intercourse laws and elsewhere. Offenc these laws are to be tried in the district courts, but this jur does not extend to offences committed by one Indian on the p property of another Indian of the same Territory; and the acted especially for the District of Columbia are not to be there. No grand juries are to be empannelled, but prosecutio

ommenced by information or presentment by the district attorney; he has the power of summoning and examining witnesses.

he district courts are also to have jurisdiction in civil suits insti- l by the United States; and between citizens of a State or another :itory, or aliens, and citizens or residents of the Territory in which :ourt is held, where the matter in controversy is of greater value $500, and arises after the act becomes in force. All the proceed- are to be had and recorded in the English language: all free male ens are competent jurors if competent by the general rules of law, erence being given to those who can understand and speak the lish language.

he courts are to be held at the seats of government, which are l at Tah-le-quah, the Creek agency, and Doaksville. The common of England is enacted as to matters within the jurisdiction of the ict courts, with the statutes of Arkansas of a general nature, in of, or modifying, or adding to, the common law and the English ites prior to the fourth year of James the first, except as to the law :hant and commercial paper and fraudulent conveyances, as to :h the law of New York is adopted. This provision applies only :e there is no express statutory provision. Bills of exception, ap- s, and writs of error are allowed to the Supreme Court under cer- restrictions, particularly in all cases involving the question of title aves, and in cases on writs of habeas corpus involving the ques- of personal freedom. The fugitive slave laws are declared in force ese Territories. The governors' salaries are fixed at $2,000, those e secretaries at $1,500, that of the district judge for Chelokee Muscogee at $2,500, and that of the district judge for Chah-ta at 00. Ten thousand dollars are appropriated and granted to each itory to erect public buildings, and fifty thousand dollars to pur- e the strip of land owned by the Osages, and to negotiate with the vnees, Senecas, and Shawnees and Quapaws.

r section 35, it is enacted "That all the free citizens of the said -al nations, to wit: the Cherokees, Creeks, Seminoles, Choc- , and Chickasaws resident, or hereafter moving into and set- iu said Territories, being of Indian or Indian and white blood, , when this act takes effect as to each nation, respectively, become, be, citizens of the United States; and the Constitution of the United s shall have the same force and effect within the said Territories sewhere within the United States."

ie President is to negotiate with the Osages for the extinguishment eir title to the narrow strip of country between the 37th parallel of i latitude and the northern line of the Cherokee country; which i obtained, is to be the property of the Cherokees. Reservations provided for all the Osages settled or having reservations there, and ing to remain; and they are to become part of the Cherokees. ision is made that the Senecas, Senecas and Shawnees, and Qua- s may be incorporated in the Territory, and become an integral of the Cherokee people, and citizens of the United States.

i the request of the legislature of either of the Territories, the Pres- : is authorized to cause the lands in such Territory belonging to ndians to be surveyed. In that event, it is provided that the legis-

lature shall devote sections sixteen and thirty-six in each township to the support of common schools, and seventy-two sections to that of a college.

Each legislature is required to enact laws regulating the institution of marriage, making it a contract for life, not dissoluble at the pleasure of the parties, prohibiting polygamy, and providing that divorces shall only be granted by judicial power for causes previously defined by a general law.

Careful provision is made that nothing in the act shall be held to release the United States from paying any moneys or furnishing any supplies which they are bound by treaty to pay or furnish to these tribes or individuals; and that no claims against the United States are to be forfeited or affected by their assent to the act.

Their assent is to be evidenced by act of their present legislative authorities, on receipt of which, from either Territory, the President is to issue his proclamation directing the organization of such Territory, and declaring the act in force as to it; and so on as to each. Two thousand copies of the act are to be printed in the Choctaw, two thousand in the Cherokee, and two thousand in the Creek language, and distributed among these Indians, and their assent is not to be given until after the expiration of six months from the passage of the act. Whenever the people of the three Territories agree, one Territory is to be created out of all, and called NEOSHO, which may afterwards become a State, when Congress is satisfied as to their capacity for self-government, and they open their country for emigration and settlement.

Such is a brief abstract of this important bill. The substance of its main features is, that it leaves the laws, legislation, rights of property in the soil, judicial tribunals, and modes of exercise of the legislative power of these Indian nations untouched; turns their principal chief into a governor elected by the people, and commissioned by the President; gives them a district court and a delegate in Congress; pays to a limited extent the expenses of the executive and the legislative departments, and makes the inhabitants of these nations citizens of the United States, entitled to the protection of the Constitution.

The country proposed to be erected into the Territory of Cheloke, consists: first, of the land conveyed by patent to the Cherokee nation in pursuance of the treaties of May 6, 1828, and February 14, 1833, being 7,000,000 acres, or 10,937 square miles. By these treaties, and that of December 29, 1835, the United States guaranteed "to the Cherokee nation a perpetual outlet west, and a free and unmolested use of all the country west of the western boundary of said seven millions of acres, as far west as the sovereignty of the United States and their right of soil extends." This territory, therefore, is to consist: second, of the lands west of said seven millions of acres to the one hundredth parallel of west longitude, between the Creek line on the south and an extension of the northern Cherokee line on the north, containing 9,375 square miles, or 6,000,000 acres; third, of the parallelogram included between the northern line of Texas on the south, the thirty-seventh parallel of north latitude on the north, and the one hundredth and one hundred and third parallels of west longitude, on the

east and west, containing 5,759 square miles, or 3,686,760 acres. The 300,000 acres west of Missouri, belonging to the Cherokees, are not included. The bill also proposes to purchase from the Osages the strip of land south of the thirty-seventh parallel of north latitude, and between that parallel and the Cherokee and Quapaw lands, westwardly to the one hundredth parallel of west longitude, containing 11,686 square miles, or 7,479,040 acres, and to transfer it to the Cherokees; and it also provides for the incorporation into the Territory, with their assent, of the Senecas, the mixed bands of Senecas and Shawnees, and the Quapaws, with their lands, lying between Missouri and the Cherokees, and belonging to them, respectively, in fee simple. These lands contain 348½ square miles, or 223,000 acres. Without these small tribes the Territory of Chelokee will contain 37,757 square miles, or 24,165,800 acres of land; with them 38,105 square miles, or 24,388,800 acres. The western half of this contains but little arable land.

The population of the Cherokee nation is now about ——— souls.

The country proposed to be erected into the Territory of Muscogee consists exclusively of that granted in fee simple to the Creeks, in pursuance of the treaty of February 14, 1833, and prior treaties with that nation. It contains 20,531 square miles, or 13,140,000 acres, and is now in part occupied by the Seminoles, who form a constituent part of the Creek nation. The population of the Creeks is about ——— souls; of the Seminoles, about 2,500.

The country proposed to be erected into the Territory of Chah-ta, is that granted in fee simple to the Choctaws, in pursuance of the treaty of September 27-28, 1830, containing 23,437 square miles, or 15,000,000 acres. The Chickasaws form a constituent part of the Choctaw nation. The population of the Choctaws is about 27,300 souls; that of the Chickasaws, according to the last census, 4,709.

This bill has no political, party, or sectional features, but is intended solely as a measure of justice to a brave and intelligent, but oppressed and unfortunate, race. It is meant to place something to the credit of this government against the long array of injuries done the red man with which our annals are running over.

By the celebraated ordinance of 1787, it was declared:

"That *the utmost good faith* should always be observed towards the Indians; that their lands and property should never be taken from them without their consent; that in their property, rights, and liberty they never should be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity should, from time to time, be made for preventing wrongs being done to them, and for preserving peace and friendship with them."

But, notwithstanding these noble and benevolent provisions—notwithstanding that the civilization of the Indians was an object close to the heart of Washington and his immediate successors, the policy of this government, as was said by a committee of the House of Representatives, on the 21st of February, 1823, "has been at war with its own professions. The Indian is called by the endearing name of brother, and he is told that we are religiously bound, by the most sacred injunction, to *do unto others as* we would that others should do unto us, at

the same time we exclude them from any participation in the benefits of our civil and social institutions. We treat the whole race as if they were not the descendants of Adam." Over and over again, in the most solemn manner, we have guarantied to nation after nation such of its lands as remained to it, after we had cajoled or forced it into a cession; and, as often, after the lapse of a few short years, has the wave of white population again overtaken the same hapless people, forcing it ever westward, and by new negotiations, new appliances of money, and presents to corrupt and greedy chiefs, and new threats of leaving them to the tender mercies of State sovereignty, another and another cession of land has been extorted, until the last grave of their fathers was included in the field of a stranger.

The history of our intercourse with the Indians contains too many things which we cannot help but regret, and which call loudly upon us for atonement and remuneration. Too often have treaties, upon the letter of which our government has sternly and mercilessly insisted, been made by a few chiefs only, not authorized to cede the lands of the nation. It has been rare, indeed, that for any such reason we have relinquished our grasp on their fields and hunting grounds. In one instance we took millions of acres by a naked confiscation from our Indian friends and allies, at the close of a war waged against them and ourselves, and in which they had fought bravely by the side of our troops in every battle; and we have ever afterwards turned a deaf ear to their humble prayers for compensation.

No doubt the injuries done the red man have often been born of an inexorable necessity—the necessity of progress and expansion. With us, as with all other growing nations, might has often been right, and necessity has justified oppression. It has too often been tacitly considered—as, indeed, it hath been on behalf of a sovereign State gravely argued—that treaties between a civilized and a barbarous nation do not bind the former to as strict an observance of entire good faith and honor, as those to which civilized communities only are parties.

We will not enter upon the recital of the wrongs done the original proprietors of this continent, or even the once powerful and populous nations, for the remnants of which this bill is intended to provide. It is sufficient to say that, once undisputed owners of the lands now forming the States of North and South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, and part of Virginia, they have been forced to recede before our determined and resistless advance, until driven over the Mississippi, they have found a resting place far to the westward, with a State of this Union lying between them and the great river. The Choctaws and Chickasaws have always boasted, and with truth, that they have never shed the blood of a white man; but as long as peaceful opposition was effectual, they clung desperately to the lands on which they were born, and where the sky and the woods were familiar to them. The Cherokees, the Creeks, and the Seminoles fought for their country, against hope, with a courage that needed no success to ennoble it. Anxious to propitiate us, and hoping that gratitude might for once overpower self-interest, the Cherokees, Creeks, Choctaws, and Chickasaws have often enlisted as our auxiliaries, and

ought for us with constancy and courage. Their blood, shed in our cause, has stained every Indian battle ground in the southwest.

But they found all efforts unavailing. They have yielded to the stern decree of destiny, and engaged in a new struggle, in which we can be their allies against the barbarism and ignorance of a nomadic life. They now study the arts of peace. They are rapidly advancing in education, enlightenment, morality, and the science of self-government; and in these efforts this bill proposes to give them aid.

The leading principle of the bill is, that nothing is proposed to be done in reference to these Indians without their own consent. The question of authority and power over them is waived. In the opinion of the committee, it is wise not to seek to *impose* a particular form of government upon them. The relations that exist between the government of the United States and those of the red race, who have no other interest in the soil than a mere usufruct, are not the same as those existing between it and those of that race who hold their lands in fee simple by patent, grant, or treaty. It might be an interesting question to inquire what power Congress had to make regulations for tracts of country which are *not* Territory of the United States. It is at least clear that whatever is to be done for the people now in question, is to be done by persuasion and not by force. It is not proposed to impose upon them new laws, or a new system of municipal government. The constitution and laws of a people, to have any actual vitality and force, must be the result of the necessities and fixed habits of acting and thinking of that people. All law that is worthy to be called law, and that is heartily and sincerely obeyed as law, is but the distinctly expressed opinion of the particular people by, or for whom, it is enacted. We cannot civilize a people by giving them good laws, no matter how wisely enacted; but to be effectual, those laws must be the result and product of their own civilization. They are the fruit—civilization is the tree.

The first question suggested to the committee in regard to this bill was, what were its object and purpose, and whether that object and that purpose were right, just, proper, and creditable to the nation. The next was, whether the provisions of the bill were calculated to attain them.

We imagine that no one can mistake the duty of the government of the United States in regard to these Indian tribes. The national honor is too deeply involved to admit of any misunderstanding upon that point. Humanity, mercy, justice, a regard for the opinion of Christendom and of our own posterity, unerringly indicate our duty in this respect. No man will be so bold as to deny that it is our duty to protect and save, to the utmost extent of our power, these fragments of once mighty nations, which have, almost unaided, done so much for themselves, and whose destruction would be a national dishonor.

While our sympathies are profusely poured forth for every people that writhes under the iron heel of the oppressor—while we are ready to offer material aid to every nation that struggles to be free—while we cheer on the Hungarian and the Italian to do battle with the rulers who deny them the free exercise of the common rights of humanity, we ought not to *forget that* we have in our midst organized communities of

men, born as free and independent as ourselves, to whom despotism and a foreign yoke is as hateful as it would be to us, who have framed for themselves free institutions and laws comparing favorably with our own; who have their courts of justice, their legislative bodies, their institutions of learning, and whom yet we hold in vassalage; to whom we deny the protection of the Constitution of the United States; the privilege of suing in our courts; the right of testifying in any case in which a white man is concerned. Why should the Hungarian, the Italian, the Cuban, receive more of our sympathy than those who were the original owners of this broad continent; who struggled bravely for their rights and their possessions as long, and longer, than the struggle was availing, and who now lie prostrate and mute before our feet, imploring us to save them from entire annhilation?

The great object of the bill is to do this act of duty and justice. No one who has any regard for the faith and honor of the nation, no one who believes that the iniquities of a people, as well as those of individuals, draw after them punishment and disaster as a necessary result and consequence, can have failed to note with alarm and concern, that it has already been announced by those holding high places in the councils of the nation, that the most solemn treaties, pledging the national faith—the most solemn grants, conveying absolute title—the most formal promises that the Indians west of the Mississippi shall never be included in any State or Territory, nor the laws of any State or Territory be extended over them, are to be but like threads of flax in the fire, before the irresistable onward rush of native and foreign emigration. The conclusion that the Indians must be destroyed and annihilated, to make room for us to expand in, no matter what solemn obligations may be violated thereby, is as coolly announced, as if the Indians were not made like us in the image of the Creator; as if those could expect His mercy, who, themselves, show none to the weak and unprotected.

This clearly indicates that it is absolutely indispensable for some new system to be adopted in regard to those of our Indian tribes that have made some advance in civilization. That these tribes cannot long exist as isolated and independent communities has become obvious. When the stronger has coveted the possessions of the weaker, it has never been difficult, in any age of the world, to find a pretext for rapine and robbery. The history of the wars between the white and red men is written by the former. The encroachments, the wrongs, the outrages, which, committed on the frontier, have often goaded the savage to resistance and desperation, are not chronicled by the pens, held by white fingers, that write the annals of Indian wars.

The object, therefore, now to be attained, is to persuade these Indians to open their country to emigration and settlement—to cease to hold their lands in common—to divide them out in severalty, giving to all their people the right of free sale and disposition—to intermingle with, and become an integral part of, the people of the United States—to merge their useless nationalties in that of the American republic, and to look forward with confidence to the time when they will constitute a portion of the Union, and add another star to its flag. This, and this alone, will preserve them, and such a result will be the highest eulogy

istory can pronounce upon free government. It will demand and
/e the admiration of the world.
is bill invites the people for whom it provides to open their country
llement and emigration, leaving it for them to determine when
ow it will be proper to do so. Knowing how sensitive they are,
ught to be, upon this subject—knowing how they dread an influx
ite men, speedily to outnumber them, and to dash them against
stern slopes of the Rocky mountains, unless their rights are so
ntied and secured that they cannot be invaded—the bill has wisely
led that their absolute right to their lands shall not be interfered
-that it shall be for them alone to say who shall settle on their
and who shall be citizens and voters in their territories—that
laws shall continue in full force—that they may punish in-
s upon their lands—that they may hold them in common,
ve them surveyed and divide them out, as they may see
Ve well know that the Indian feeling is *timeo danaos et dona*
es, for they have had little cause to put trust in promises or pro-
is. Their wounds are yet too fresh. They shrink instinctively
our finger approaches them. They do not need to go back into
enturies to find examples of punic faith.
; it is to be hoped that, when they see us in earnest; when they
at justice, mercy, a generous liberality and a jealous regard for
itional honor really outweigh our hankering for more land; when
re made citizens of the United States, and the broad shield of the
itution is extended over them; when our courts are open to them,
ey have a standing there; when their voices can be heard on the
f the House of Representatives, to make known their wrongs and
d justice; when railroads reach their borders, and their magnifi-
ands become too valuable for their common people longer to let
lie idle and uncultivated as common property, then they will
lly, controlled, as the whole human race is controlled, by self-
st, divide out those lands, and allow them to be sold, and emigra-
come within their borders. The day for overreaching them will
be over. Schools, academies, and colleges well endowed and
erous, will fit their youth to perform the duties and share the
s of American citizens, and the great problem as to their fate and
will be solved.
e provisions of the bill have been carefully framed for the attain-
of this object. In no degree interfering with the *quantity* of the
tive power, it proposes to the Indians to vest it in a governor for
Territory, elected by themselves and commissioned by the Presi-
-the only change being in the person, the name of the office, and
urce of the commission. By authorising the super-addition of
n powers under the government of the United States, and paying
salaries from the national treasury, sufficient is done to make
officers regard themselves, by degrees, as officers of the United
, and frequent elections will soon remove the last vestige of the
chial system of chieftainship—perhaps the greatest obstacle to
advancement—and so far go to change their ancient usages and
ns.
e legislative power in each nation is to remain as at present. The
kees, and the Choctaws and Chickasaws having already legisla-

tures, composed of two branches, regularly organized under a
constitution, it is proposed that the expenses of those legislature
be paid by the United States for a limited number of days and
bers; and, to induce the Creeks and Seminoles to adopt our sys
government, it is proposed that such payment shall be made i
case when, and not until, they substitute a legislature, with two br
for their present general councils composed of all the chiefs an
riors.

To the same end, it is provided that all laws hereafter enacte
be written; that in selecting jurors, preference shall be given t
who can speak the English language; and that the proceedings
district courts shall be had and recorded in the same; the e
which provisions will be to induce the youth of those nations to
a knowledge of our language, in order to be fully competent to e
all the rights of freemen.

The bill declares all the Indians within the Territories so to be
ized to be citizens of the United States, and extends over them t
tection of the Constitution and laws of the United States.
aware that this may at first blush seem hasty and premature
moment's reflection will convince any one that it is the indisp
first step, if the country occupied by them is to be erected into
more Territories, either now or hereafter. No white man ca
upon their lands without their consent; and it cannot be in
that a race so intelligent and shrewd as they, will ever give su
sent, in order that they may again among them see a populatio
rior in rights to themselves, assuming the reins of government,
a State, extending new laws over them, disposing of their land
nues, and funds at their pleasure, and at the same time denyi
all civil rights and privileges. They are not likely to invit
men to come among them and be their masters.

We have already, by treaty, annexed to ourselves and made
of the United States thousands of persons, in New Mexico an
fornia, of pure or mixed Indian blood. The nations provided
this bill are as intelligent and as capable of self-government
to say the least. They will not come among *us*, citizens thou
may be, to settle and reside: and we shall not be compelle
among *them*. They will have no vote in our national affairs,
in the deliberations of any State. Their citizenship will benef
and injure no one. They will unhesitatingly refuse their assen
bill, unless they are made citizens of the United States. The
to do so. Nothing less than this will satisfy or assure them t
will not again be driven westward or exterminated, if they op
country to emigration, or accept any bill giving them the form
of a Territory. Nothing else will convince them that they not o
rights, but that, possessing the *status* of American citizens, th
will maintain and protect those rights to the amplest extent.
be only when they are placed upon a footing of perfect equ
every respect, with the white man, that they will no longer dre
justly dread, his presence among them as the harbinger of
ruin.

To deserve this inestimable gift, the bill demands that, b

ens of a Christian country, and protected by a Constitution made
ınd for a Christian people, they shall pass laws, if they have them
already, making marriage a contract for life, not dissoluble at the
sure of the parties, but only by the judgment of a judicial tribunal,
:auses previously declared by a general law. We thus tempt them
ıke a long step in the march of civilization.

'o induce them to cease holding their lands in common, and divide
ı out in severalty, the bill offers to cause to be surveyed, at the ex-
ıe of the United States, the lands belonging to these tribes, when-
; and not until, they desire and request it. They possess a country
inferior in fertility and beauty to any portion of the United States.
t of the Cherokees is as rich and beautiful, as well watered and
thy, as the finest portions of Iowa and Wisconsin; as lovely in its
rie scenery as the choicest parts of Texas. Nor is there any more
rable country than that owned by the Choctaws, and part of that
ed by the Creeks. Let railroads run to the border of this country,
, lies there with its vast extent of arable land untilled, and its great
eral treasures undeveloped, and every Indian within it is wealthy,
ı the surplus of his interest in the national lands, over and above
t he needs for himself. Let them be but familiarized for a time
ı the ballot-box, and taught to read our language, and the poor will
and their share of the lands, and of that share will sell the super-
y.

ut, whenever this is done, the bill provides that the interests of
:ation shall not be neglected. It requires two sections in every
ıship to be devoted to the maintenance of schools and academies,
seventy-two sections in each Territory to the support of a college.
legislatures may increase, but cannot diminish, this ample pro-
ın.

y giving each Territory a delegate in Congress, we enable these
ons hereafter to be heard by this government, in regard to their just
ns upon it. Heretofore, while we have taken no pains to look up,
but little to look into their claims, we have discredited the persons
have employed, and endeavored to render the character of an
ıt or attorney of an Indian tribe odious and disreputable; as if these
ıle were not quite as competent to employ an agent as to give away
· lands to us for a song. Rendering the compensation of all agents
:rtain, we compel them to exact, or at least justify them in exacting
xorbitant contingent return for their services. Our departments
the Indians that they will not recognize any agent they may em-
, because the government employs agents for them, to reside
ng them whose duty it is to present and press their claims; and
ıe same breath, they refuse to order on these agents to attend to
ns pending before Congress. It is time that they should have re-
entatives identified in interest with themselves, and responsible to
ı, clothed with official authority to compel an attentive hearing from
gress and the departments, and paid for their services by the honor
ıe station conferred upon them, and not by a per-centage upon the
claims of an unfortunate people.

y the seventh article of the treaty of December 29, 1835, with the
rokees, it was *stipulated* that they should be entitled to a delegate

in the House of Representatives of the United States, whenev gress should make provision for the same. By the treaty of th September, 1830, the Choctaws "expressed a solicitude tha might have the privilege of a delegate on the floor of the House o resentatives extended to them." The commissioners did not fe they could, by a treaty stipulation, accede to this request; but pre it in the treaty, that Congress might consider and decide on the cation. To that application, and to the positive promise conta the treaty with the Cherokees, this bill responds.

The committee entertain no doubt of the propriety of exten these Indians the privileges for which the bill provides. They tain no doubt of their capacity to advance in civilization. It ha said that the hopes of those who desire to protect and preser Indians must prove fallacious; that he can no more be tamed th grouse or partridge; and that his inexorable fate is to melt aw disappear entirely before the white man. Such is not the opi the committee. They think with the Secretary of War of th President, that this opinion "is probably more convenient than He was right in thinking "that the civilization of the Indians wo an operation of complicated difficulty. That it would requi highest knowledge of the human character, and a steady persev in a wise system for a series of years, cannot be doubted. deny, that under a course of favorable circumstances it could accomplished, is to suppose the human character under the in of such stubborn habits as to be incapable of melioration or ch a supposition entirely contradicted by the progress of society fr barbarous ages to its present degree of perfection."

Of course, to make these people in all respects as civilized selves is to be a work of time. No great or good result in na produced otherwise. Even the oak does not grow in a moment that we can do is to make a beginning, to offer all reasonable i ments in our power, to use all fair and just appliances, and lea result to Him who shapes the destinies of nations. We need for encouragement to the Picts, and Scots, and naked Britons, time of Cæsar; for scarcely a hundred years have elapsed sin Highland warrior was quite as rude and tameless as the Creek Seminole.

Facts, under our own eyes and of no doubtful character, pro yond any question, that to civilize the Indian is not impracticable have only to examine the constitution, the laws, the schools, the habits of three of the nations provided for by this bill, to see th red man, with the same opportunities, is quite as competent to settled life, and to make and enforce good and wholesome laws, ourselves.

The Cherokees have been in the habit of enacting written law the year 1808. In 1827 they adopted a written constitution; 1839 another, with very slight variations, was adopted by the Eastern and Western Cherokees. The Choctaws adopted a constitution in 1850. The Cherokee constitution was framed "in to establish justice, insure tranquility, promote the common w and secure to ourselves and our posterity the blessings of free

divides the powers of government into three departments. The slative power is vested in a national council, composed of two nches—a national committee and a council—the members of ich are elected by all free male citizens over the age of eighteen rs. The national council meets annually, and its powers and les of proceeding are the same as those of the legislatures of our tes. The executive power is vested in a principal chief, elected the qualified voters, and serving four years. He must be a native n citizen, and twenty-five years of age. He has the power of oing laws, but two-thirds of each branch may pass them notwithnding his veto. There is an assistant principal chief; and the cipal chief himself is assisted also by an executive council of members.

The judicial power is vested in supreme, circuit and inferior courts. e judges of the supreme and circuit courts are elected by the naal council, and serve for five years. The constitution provides that sons accused shall have the right of being heard; of demanding the ure and cause of the accusation; of meeting the witnesses face to e, and of having compulsory process to compel their attendance. In prosecutions by indictment or information, a speedy public trial by impartial jury of the vicinage is secured, and the accused cannot be mpelled to give evidence against himself. The ordinary provisions our State constitutions in regard to unreasonable seizures and rches, and search warrants, are incorporated into this constitution. person can, for the same offence, be twice put in jeopardy of life or b; nor can property be taken and applied to public use without a t and fair compensation.

No person who denies the being of a God, or a future state of reward punishment, can hold office. The free exercise of religious worp and serving God without distinction is guarantied to all. The t of trial by jury is declared inviolate, and all persons for injury tained in person, property, or reputation, have remedy by due rse of law; and the 9th section of the 6th article is in these words: Religion, morality, and knowledge being necessary to good governnt, the preservation of liberty and the happiness of mankind, schools, the means of education shall forever be encouraged in this ion."

The declaration of rights of the Choctaw constitution declares that All freemen, when they form a social compact, are equal in rights, no man or set of men are entitled to exclusive separate public oluments or privileges, but in consideration of public services; that re shall be no establishment of religion by law, no preference given any sect, society, denomination, or mode of worship, and no religious t allowed as a qualification for public trust; that no human author- can control or interfere with the rights of conscience; that no per- shall, for the same offence, be twice put in jeopardy of life or limb, shall any person's property be taken or applied to any public use, less just compensation be made therefor."

No title of nobility or hereditary distinction, privileges, honor or oluments, can ever be granted or conferred; nor can any office be ated, the appointment to which shall be for a longer time than dur-

ing good behavior. The press is to be free; the people secure searches and general warrants; freemen to be punished only judgment of their peers or the law of the land. Persons accus the same rights as are guarantied by the Cherokee constitutio penalties are to be reasonable; the citizens have the right of p address, and remonstrance; and no retrospective law, or law ing the obligation of contracts, can be enacted.

The powers of government are divided into three distinct ments. The legislative power is vested in a general council, ing of a senate and house of representatives, the former consi sixteen senators, chosen by the qualified electors—four in each four districts—for two years. The house is composed of m chosen every year by the qualified electors in each district, in t of one representative for every thousand citizens. Every bill must be presented to the chiefs or their speakers. If they si becomes a law; if not, they return it with their objections, and becomes a law if re-passed by two-thirds of both branches. T ral council meets every year, and the provisions in regard to its and modes of proceeding are like those in our State constitution gard to the legislature.

The executive power is vested in four chiefs, one for each any two of whom are sufficient to exercise the duties of the ex at the general council. The chiefs and their speakers are ele the people, and serve for four years. They jointly give the council information of the state of the government, and reco measures for their consideration. They take care that the la faithfully executed, may convene the general council on extrao occasions, and adjourn it in case of a disagreement between t houses.

The judicial power is vested in a supreme national court, court, and county courts. The judges of the supreme and circuit are elected by the national council. The former are four in n one from each district have appellate jurisdiction only, and ho offices four years. The circuit judges hold their offices two They receive a regular compensation fixed by law, and not to minished during the time for which they are elected; and no perquisites.

All free male citizens over eighteen years of age, and havin citizens five months, are qualified voters. All general electi holden by ballot. The general council can raise a revenue for t port of schools, but for no other purpose. No person who de being of a God, or a state of future rewards and punishments, c any office, or be allowed to testify in any court.

Such is the mode of government of these two nations. The are not so far advanced, but their form of government is dem their chiefs elective, and their laws are just and equal, and the recently appointed a committee of thirty to prepare a constitut code of laws.

All these tribes have now become a settled people engaged culture. The Christian religion is the religion of them all. Th of them are indolent is owing in part to the system of holdi

ds in common, which represses energy, and withholds the greatest all incentives to industry, the hope of accumulating landed estate, d in part to their habit of relying for support on their annuities. It to be hoped that, when these territories are established, arrangements ll be made, by amicable negotiation, by which all their annuities ll be commuted, and fair amounts paid the different nations in money stead.

The Cherokees have an alphabet of their own, invented by a native-rn Cherokee, consisting of eighty-six characters. The newspaper d official journal at Tah-le-quah is printed partly in Cherokee and rtly in English.

The traveller is as safe in the country inhabited by these nations as any State east of the Mississippi, looks with surprise upon comforta- houses and smiling fields, and wonders that he sees no more sign barbarism on the western than on the eastern side of the Indian line.

The Cherokee agent says, in his report of the 13th September, 1853: The common people are making slow but steady advances in the ence of agriculture. The more enlightened and intelligent portion, o have means, live much in the same style of the southern gentle- n of easy circumstances. Many of the dwellings of that class are ge, comfortable, and handsome buildings. Their fields, too, are well closed with good rail fences, and their yards and gardens are hand- nely paled in, and the grounds tastefully laid off and ornamented th rare and beautiful shrubbery." One of the presiding elders of Methodist church says, on the 8th of September, 1853: "This ses my nineteenth year among the Indians as a missionary, and point of education, morality, and agriculture, they (the Cherokees,) improving as fast, perhaps, as any other nation."

There are, in the Cherokee nation, five missionary stations under care of the American Board of Commissioners for Foreign Mis- ns, the churches at which contain, together, some 190 or 200 mem- rs, and the schools at the same, some eighty or more pupils. The tistics of these churches and schools, for 1853, are imperfectly re- rted. There are seven Methodist missions, with 1,520 church mem- rs, eighteen ministers, of whom six are white men and twelve native erokees, and six sabbath schools with 137 scholars. There are pub- schools, at which the superintendent reports, for the year prior to ptember, 1853, 950 scholars, including 110 orphans, residing in good milies, and properly cared for. At Tahlequah and Flint there are Ma- ic lodges.

The agent of the Creek says: "I was gratified, on my arrival in the eek nation, to find that harmony and good feeling prevailed among chiefs themselves, and between them and the other people of the tion, and that they had advanced in civilization and moral culture far yond any thing I had reason to anticipate from my knowledge of em previous to their removal to the west. It is gratifying to observe progress of the Creeks in the industrial pursuits of life; the chase s been entirely abandoned as a means of livelihood, and the cultiva- n of the soil, and the raising of stock as its substitute, prosecuted th laudable energy. There is abundance of provisions in the coun- y to supply the wants of the nation."

There are in the Creek nation three Presbyterian manual labor schools, having together 143 scholars; a female school with about [illegible] scholars; and several government neighborhood schools, having, as far as reported, 230 scholars. Three hundred members of the Methodist church are reported. There are native female teachers and native young men studying under the care of the Presbytery for the gospel ministry. There is a national temperance society; the "Maine law" was in force there before it was adopted in Maine, and strenuous exertions are made to enforce it.

The agent of the Chickasaws says "the crops this year are very beautiful in all sections of the country, besides a large quantity of last year's crop of corn being on hand. They (the Chickasaws) are entirely an agricultural people, and inclined to industrious habits. They are a proud people, and desire to be like their white brethren in arts and occupations; and every encouragement should be given them by their guardian, the United States government." Besides the government manual labor school, the Chickasaws have schools of their own.

The agent of the Choctaws states that most of them are engaged in agriculture; that they are peaceable and easily governed, and have ever been noted for their attachment and loyalty to the United States. The cause of Christianity is steadily progressive among them. The capacity of the children for learning he thinks "fully equal to the standard among the whites." The Choctaws enacted the "Maine law" more than twenty years ago, and have sustained it ever since. Many of the people wear clothing of their own manufacture. Public roads are worked, and bridges made in all directions.

There are nine seminaries in the Choctaw nation, supported, in part, by sums secured by treaties for educational purposes; in part by the interest arising from the Chickasaw fund invested under a compact between the Choctaws and Chickasaws; and in part by contributions from missionary societies. The aggregate amount appropriated by the nation to these seminaries is $26,000. There are in them about 500 students, at an average cost, including board, lodging, and clothing, of about $60 per annum.

There are also over thirty common neighborhood schools, at which about two thousand scholars are taught reading, writing, and arithmetic in Choctaw and English.

The language of the Choctaws was reduced to writing by the Rev. Alfred Wright, who translated and published some sixty books and tracts in that language, besides the new testament and six books of the old. A very large number of the Choctaws are members of the church, but the statistics of the churches are not furnished. In five churches reported there are five hundred and thirty members.

The Neosho Indian agent reports the Senecas as an agricultural people, enlarging their cultivation, living in comfortable houses, and having good outbuildings, and the Senecas and Shawnees as a still more industrious and pleasant people, many of them very industrious, and with farms that will compare well with many in New York and Ohio. All these Indians make an abundance of provisions and raise much stock. The Quapaws are a harmless and inoffensive but indolent people; some of them have good farms, and they have made ar-

ngements to have their children educated at the Osage manual labor ool.

It is useless to say that a people who, in the face of so many disad-ntages, have made such advances in civilization and the science of vernment, are untameable and unfit to become citizens of the United tes. It may very seriously be doubted whether a community of cient Britons or Saxon serfs exposed to the same treatment, op-ssed and persecuted, denied the rights and privileges of citizens, ven again and again from their homes, diminished in numbers, de-ded and discouraged, would have made greater progress in the me length of time than these Indians have done.

It is evident that the bill proposes a radical change in our policy to-rds these particular tribes. It is time such a change should take ce. We have solemnly stipulated with the Choctaws and Chicka-ws that they shall have the jurisdiction and government of all per-s and property within their limits, so that no State or Territory ll ever have the right to pass laws for their government; that no t of the land granted them shall ever be embraced in any Territory State; and that they shall be forever secure against all laws except se passed by their own national councils, not inconsistent with the nstitution, treaties, and laws of the United States, and except such have been enacted by Congress to the extent that they are required der the Constitution to exercise legislation over Indian affairs. We e made, in substance, the same stipulations with the Cherokees and eks. Their lands cannot be included within the limits of any State Territory, or their right to be governed by their own laws taken n them. These are the provisions of solemn treaties—a part of the reme law of the land. They are not to be violated without national race and dishonor.

n addition to these stipulations it is well known that these different ions have at present, and will continue to have, so long as they re-n in their present condition, insuperable objections to uniting with h other in any form of government. The plan of an alliance, or federation, was suggested, in 1831, by the Secretary of War; but as never found any favor with the Indians, nor will it ever, unless der the operation of this bill. It is utterly impracticable, at present, stablish *any* single territorial government to include them all; and nclude them in a Territory to be inhabited by white men, would be pen and shameless violation of the most sacred and solemn treaty ulations.

n the meantime it is written that the white race must advance. y have trespassed and settled on Indian lands heretofore, in de-ce of acts of Congress and proclamations, at the risk of war and of r lives; and they will do so again. This bill offers the only means ll plausible, of opening this valuable country to our people, and, at same time, of preserving unstained the national faith and honor, saving from ultimate destruction these brave and unfortunate es.

it should fail in these great objects, we, at least, shall have done duty; and the sin of broken treaties, and violated national faith, not rest upon *our heads*. These Indians are in our hands. God

has placed them in our care. It is us who shall be called on count for them. The system which the bill proposes will ent expense upon the treasury. But we may say to that, as was General Knox, that a system of coercion and oppression would bly amount, in the end, to a far larger sum of money; and it is that the blood and injustice which would stain the character of th would be beyond all pecuniary calculation.

The committee entertain a sanguine belief that the ultimate of the bill will be all that the friends of the Indians desire, and the dictates of humanity, the interests of our own people, and t ciples of justice, good faith, and honor demand; and they, th again recommend its passage.

R. W. JOHNSON,
Of Committee on Terri

A BILL to establish and organize the Territories of Chel-o-kee, Muscogee, and C

Be it enacted by the Senate and House of Representatives of th States of America in Congress assembled, That, in order mo to extend the protection of the Constitution and laws of the States over the Cherokee, Muscogee or Creek, Seminole, C and Chickasaw tribes or nations of Indians, and to enable ther vance in civilization and hereafter become citizens of the United all that portion of country west of the States of Missouri and A included within the following limits to wit: Beginning at a poin old western territorial line of Arkansas Territory, being twe miles north from the point where the said territorial line cro Arkansas river; thence running from said north point south w territorial line to the point where it crosses the Verdigris river down said Verdigris river to the Arkansas river; thence do Arkansas river to a point where a stone was placed in the year hundred and thirty-three, opposite the east or lower bank of the or Grand river, at its junction with the Arkansas; thence runnin forty-four degrees west, one mile; thence in a straight line to four miles northerly from the mouth of the north fork of the C river; thence along the said four mile line to the Canadian river; down the Canadian river to the Arkansas river; thence down kansas river to that point on the same where the eastern C boundary line strikes said river; thence running with the boundary line of the State of Arkansas to the southwest co Missouri; thence along said western boundary line of Missour lands assigned to the Senecas; thence on the south line of the S to Grand river; thence up Grand river, to the southwest corne eight hundred thousand acres or neutral ground belonging to the kees; thence with the southern boundary line of these land western boundary line of Missouri; thence with said western bo line of Missouri to the thirty-seventh parallel of north latitude; with that parallel of latitude to the one hundredth parallel of w gitude; thence with that parallel to where it crosses the north

Texas; thence with that line to the one hundred and third parallel west longitude; thence with that parallel of longitude to where it sses the thirty-seventh parallel of north latitude; thence with that rallel of latitude to where it crosses the one hundredth parallel of st longitude; thence with said parallel of longitude to a point on the ne due west from the place of beginning; and thence due east to e place of beginning, shall be, with the assent of the Cherokee nation Indians, to be obtained in the manner hereinafter provided for, ected into a special and qualified Territory of the United States, to called the Territory of Chel-o-kee. And all that portion of country ith and west of said Territory of Chel-o-kee bounded on the north and st by said Territory of Chel-o-kee, on the south by the Canadian er, and on the west by the one hundredth parallel of west longitude, all be, with the assent of the Muscogee or Creek and the Seminole bes or nations of Indians, to be obtained in the manner hereinafter ovided for, erected into a special and qualified Territory of the ited States, to be called the Territory of Muscogee: And all that rtion of country west of the State of Arkansas, bounded on the east the State of Arkansas, on the north by the Territories of Chel-o-kee d Muscogee, on the west by the one hundredth parallel of west longude, and on the south by Red river, shall be, with the assent of the octaw and Chickasaw tribes or nations of Indians, to be obtained in e manner hereinafter provided for, erected into a special and quali-d Territory of the United States, to be called the Territory of ah-ta.

Sec. 2. *And be it further enacted,* That nothing in this act contained all be so construed as to abrogate, change, alter or impair the con-ution or laws, or the customs or usages having the force of law, of her of said nations of Indians, or to annul or interfere with their islative bodies or judicial tribunals, or to lessen or curtail the power d jurisdiction of either of such bodies or tribunals, or to change the alifications of voters, or in any way to interfere with the municipal airs of said nations or their mode of enforcing their laws, and the gments, orders, and decrees of their courts and tribunals of justice, n any way to interfere with, limit, or control their right to the lands etofore conveyed and secured to them by treaty with, or patent or nt from, the United States, or their power to dispose of the same they may please, to retain the same as national property, or to ide them among their citizens, or to compel them to admit to citiship, except as hereinafter provided, any persons whomsoever, unless their own free consent evidenced by law or other proper authority, o make any other change in their present condition and their relas to the United States, except such as hereby specially enacted and vided.

Sec. 3. *And be it further enacted,* That, with the assent of said nas, the executive power and authority in and over each of said Terries shall be vested in a governor, who shall be elected by such e male citizens of said Territories, respectively, as by the laws of d nations are or may be qualified voters therein, in such manner, r the first election, as the legislative authority of each such Terry shall direct; the person having the highest number of votes being

Territory for which he is elected, and to execute faithfully the
of his office; and shall hold his office for four years from the da
qualification, and until his successor shall be elected and qualifi

SEC. 4. *And be it further enacted*, That the first election for g
shall be held at such time and places, and be conducted in suc
ner, both as to the persons who shall superintend such election
returns thereof, as the supreme legislative power, or national or
council, of each of said Cherokee, Creek and Choctaw nations s
rect; and the returns of such elections shall be made to said
tive councils or legislative bodies, who shall settle any conte
such election, and themselves elect in case of a tie, and cause th
to be certified to the President of the United States, and deliver
tificate, in duplicate, one to the candidate elected, and one to
perintendent of Indian affairs west of Arkansas, for the time
who shall forward it to the President.

SEC. 5. *And be it further enacted*, That the said governors s
side within their respective Territories, and supersede the p
chiefs, or highest executive officers or chiefs of said several
They shall exercise such powers as are now, or may, before
ganization of the respective Territories, be conferred by said Ch
Creek, and Choctaw nations upon their principal chiefs or highe
utive officers, or as may afterwards be conferred upon them by th
latures of their respective Territories. They shall be comman
chief of the militia thereof, shall perform such duties as may fr
to time be prescribed by act of Congress, and receive such co
tion therefor as shall be fixed by law; may grant reprieves for
against the laws of the United States, until the decision of th
dent can be made known therein; shall commission all chief
chiefs, judges, sheriffs, and subordinate officers, who shall be ap
to office under the laws of their respective Territories; and sh
care that those laws, and the laws of the United States in force

Lence semi-annually, on the first days of April and October in each
to the President of the United States; two copies of the laws to
President of the Senate, and two to the Speaker of the House of
resentatives of the United States, for the use of Congress; two
s of the laws to the librarian of Congress, and two to the librarian
e Supreme Court. And in case of the death, removal, resignation,
bsence from the Territory, of the governor, he shall be, and is
by, authorized and required to execute and perform all the duties,
exercise all the powers of the governor, during such vacancies or
nce, or until another governor shall be duly elected, commissioned,
qualified to fill such vacancy.

c. 7. *And be it further enacted*, That vacancies in the office of
rnor shall be filled by election by the people, in such manner as
egislature of each Territory shall direct, unless they happen within
months of the next regular election, in which case no previous
ion shall be held, unless there be likewise a vacancy in the office
cretary. Elections to fill vacancies in the office of governor shall
rdered by the secretary, or, if his office be also vacant, then by
residing officer of the single or highest branch of the legislature.

c. 8. *And be it further enacted*, That the legislative authority of said
itories shall continue to be vested, as at present, in the Chel-o-kee
itory, in the national council, composed of the national committee,
hereafter called the House of Representatives, and of the coun-
in the Muscogee Territory, in the General Council, or in a House
epresentatives and Council to be created hereafter by law enacted
aid General Council; and in the Chah-ta Territory, in the Gene-
Council, composed of a Senate and House of Representatives, as
ame are respectively at present constituted; there to be exercised
cordance with the constitutions, laws, usages and customs of said
ral nations; and the members of said bodies to be elected and
ified, and the said bodies to be constituted, organized, and gov-
d as said respective constitutions, laws, usages, and customs now
ide, until they themselves shall make provision to the contrary:
ded, however, That all laws hereafter enacted shall be written, and
the Chickasaws shall be represented in the legislature of the Ter-
y of Chah-ta, and the Seminoles in that of Muscogee, in proportion
eir numbers.

c. 9. *And be it further enacted*, That the first governor of each of
Territories shall, immediately after entering on the duties of his
, cause a census and enumeration of all persons in his Territory
taken, by such persons, and in such mode, as he shall appoint
designate; and the persons so appointed shall receive a reason-
compensation therefor, to be fixed by the Secretary of the Inte-

c. 10. *And be it further enacted*, That the qualifications of voters,
those for holding office in said Territories, shall be fixed and deter-
d by the legislatures of each; and no white man, settling in either
id Territories, on lands belonging to either of said Indian nations,
be entitled to vote or hold office therein, unless in virtue of a gen-
or special law of its legislature: *Provided*, That no nation or tribe,
rt of a nation or tribe of Indians now within either of said Territo-

and integral portions of their own nations, upon the same footi
other individuals thereof, there residing at the time when this ac
effect as to such respective Territories, and with the same ri
they, in all respects whatsoever; but this shall not apply to su
dians as may come or settle within such Territory without the c
of the legislature thereof, and without being recognized as citizens
of by law.

SEC. 11. *And be it further enacted*, That the legislative power
of said Territories shall extend to all rightful subjects of legislati
sistent with the Constitution of the United States and the provis
this act; but no tax shall be imposed on the property of the
States; nor shall the lands or other property of white men or n
dents be taxed higher than the lands or other property of resident
citizens.

SEC. 12. *And be it further enacted*, That, inasmuch as all the
by this act included in the Territories of Muscogee and Chal
longs, respectively, to the Creek and Seminole and the Choct
Chickasaw nation of Indians; and as so much of the country
included in the Territory of Chel-o-kee as, under the treaties of
hundred and twenty-eight and eighteen hundred thirty-three, v
veyed and assured to the Cherokee nation of Indians, being se
lions of acres, as described and bounded in said treaty of eight
dred and thirty-three, belongs to said Cherokee nation, with
west as far as the sovereignty and right to the soil of the Unite
extends; the said nations owning said lands in fee simple; no wh
or other Indians, shall be allowed to settle or trespass on any
lands, east of the one hundredth parallel of west longitude, wit
consent of the legislature of the proper Territory, and in pu
of laws by it enacted; and each such legislature may pass su
as may seem to it good, for preventing and punishing such
ments and trespasses: *Provided*, That the trial for such offen

SEC. 13. *And be it further enacted*, That, in order to secure the due ıforcement of so much of the laws of the United States, in regard to iminal offences and misdemeanors, and to civil remedies, as is or may ɜ in force in said Territories, each of said Territories is hereby erected to and constituted a judicial district of the United States, for the spe- al purposes and jurisdiction hereinafter provided; and the jurisdiction each court hereinafter created shall be co-extensive with the limits the Territory for which it is created.

SEC. 14. *And be it further enacted*, That in each of said districts there hereby created, and shall hereafter be held, semi-annually, a district ɔurt of the United States, with jurisdiction in such matters, civil and iminal, to such extent, and between such parties, as is hereinafter ɛovided.

SEC. 15. *And be it further enacted*, That there shall be appointed y the President of the United States, by and with the advice and con- ɜnt of the Senate, the following officers, that is to say: one judge of the istrict courts of the United States for the Chel-o-kee and Muscogee istricts, and one judge of the district court of the United States for ıe Chah-ta district; each of whom shall hold his office for the term f six years, unless sooner removed by the President of the United tates, and until his successor is appointed and qualified; and one arshal for each of said districts, each of whom shall hold his office r four years, unless sooner removed.

SEC. 16. *And be it further enacted*, That the district judge for the hel-o-kee and Muscogee districts, shall appoint a clerk and an inter- eter for each of the district courts in which he presides; and the dis- ct judge of the Chah-ta district shall appoint a clerk and an inter- eter for the district court of his district. Each of said clerks shall so be the register in chancery, shall hold his office during the plea- re of the judge of his court, shall keep his office at the place where e court is held, shall receive the same fees and compensation as are ɔw allowed by law to the clerk of the district court for the western strict of Arkansas, and shall be qualified in like manner and perform ɛe duties as the clerks of other courts of the United States; each in- rpreter shall be employed during the pleasure of the court, and be ıid three dollars a day for each day while so employed; and the mar- ıals shall give bond, and be qualified like the marshals of the United ɛates in other districts.

SEC. 17. *And be it further enacted*, That so much of the now existing ws of the State of Arkansas as defines and fixes the punishment of fences, which, by such laws, amount to felony, and so far as not cally inapplicable, shall, after this act takes effect, be in force, as if ɜreby literally and specifically enacted, in each of said three Terri- ɪries; as also so much of the laws of the United States as provides ɪr the punishment of treason, robbery of the mail, and counterfeiting ıe coin or securities of the United States, and of violations of the neu- ality laws of the United States; and so much of the laws of the United tates as defines and provides for the punishment of crimes and offences gainst the laws, treaties, or authority of the United States, over which ıe courts of the United States have exclusive jurisdiction; and the va- ɔus laws now in force regulating trade and intercourse with the Indian

tribes, and for maintaining peace upon the frontier, so far as they continue to be applicable under this act; and the several district courts aforesaid shall, respectively, have jurisdiction to try, condemn and punish offenders against any of such laws, to adjudge and pronounce sentence, and cause execution thereof to be done, in the same manner as is done in other circuit and district courts of the United States; to which end, circuit court jurisdiction is conferred on each of said courts, so far as it may be necessary to carry out the provisions and effect the object of this act.

SEC. 18. *And be it further enacted*, That the jurisdiction hereby created shall not extend to crimes or offences committed by one Indian against the person or property of another Indian of the same Territory; and that the laws in force only in and specially enacted for the District of Columbia shall not be in force in either of said Territories.

SEC. 19. *And be it further enacted*, That there shall be appointed by the President, with the advice and consent of the Senate, an attorney for each of said Territories, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President; and who shall receive the same fees and salary as are now allowed to the attorney of the United States for the present Territory of Utah. The several marshals of said Territories shall be entitled to the same fees as are now allowed to the marshal for the present Territory of Utah; and each such marshal shall also, in addition, be paid two hundred dollars annually, as a compensation of extra services.

SEC. 20. *And be it further enacted*, That in all criminal trials in said district courts, and in all suits therein at common law, the right of trial by jury shall remain inviolate; but prosecutions for all offences hereby made cognizable in said district courts shall be commenced by presentment or information of the district attorney; and no grand juries shall be empanneled in such courts; and power is hereby given such district attorneys to cause process to issue for witnesses, prior to presentment or information; and to administer oaths to and examine the same; and such witnesses shall prove their attendance in the same manner, and receive the same compensation, as witnesses summoned to testify before grand juries in the district court of the United States for the western district of Arkansas.

SEC. 21. *And be it further enacted*, That each of said district courts shall have jurisdiction in all civil suits instituted by the United States against persons, whether white men or Indians, residing within its district; and in all civil suits at law and in equity, where the matter in controversy is of greater value than five hundred dollars, between citizens of any State of the United States, or of any Territory other than that wherein the suit is brought, or aliens and citizens of the Territory wherein the suit is brought, or persons residing therein, upon contracts made by, or rights of action accruing against, the persons so sued, in each such district court, respectively, after the time when this act becomes in force as to such districts, respectively; but upon no other contracts, or rights, or causes of action whatever; in which suits the same practice shall govern, the same proceedings be had in all respects, before and after judgment or decree, and the same costs be adjudged, and in the same manner collected, as now in the district court of the United States for the

tern district of Arkansas; and the forms of all original and mesne ess shall be the same as are now used in that court.

EC. 22. *And be it further enacted*, That all the proceedings in said ts shall be had and recorded in the English language; and no per- shall be competent to serve as a juror who is not a citizen of the ict; that all citizens of the district, being free males and over the of twenty-one years, if competent by the general rules of law, l be competent to serve as jurors, preference being given to those can speak and understand the English language; that the practice l criminal cases therein, including the right of challenge of jurors, l be the same as in the district court of the United States for the tern district of Arkansas; and that, within the sphere of its jurisdic- hereby defined, each of said courts shall be invested with the same ers as said district court as the western district of Arkansas; its eedings shall have the same validity as those of that court, and l be authenticated in the same mode, and have the like faith and it everywhere.

EC. 23. *And be it further enacted*, That the terms of said district t for the district of Chel-o-kee shall be holden on the first Mondays Iarch and September; those of said district court for said district Iuscogee, on the first Mondays of May and November; and those aid district court for the district of Chah-ta, on the first Mondays pril and October; and that said court in the district of Chel-o-kee l be holden in the town of Tah-le-quah, that in the district of Mus- e at the Creek agency, and that in the district of Chah-ta at ksville.

EC. 24. *And be it further enacted*, That all existing provisions of law ting to the powers, duties, or modes of proceeding and action of circuit and district courts of the United States, of a general nature, locally inapplicable, and not contrary to the provisions of this act, l extend and apply to said district courts; that their judgments and ees shall have the same effect as those of such other courts, and s of property thereunder shall be made and evidenced, and title eby pass, in the same manner as under judgments and decrees of district court for the western district of Arkansas.

EC. 25. *And be it further enacted*, That the common law of England, the statutes of England, of a general nature, prior to the fourth of James the First, and the statutes of the State of Arkansas now rce, of a general nature, in aid of, and modifying, or adding to, the mon law and statutes of England, shall govern in said districts, in atters of contract, within the civil jurisdiction of said district courts, re no provision to the contrary is, or may be made by express stat- except so far as said statutes of Arkansas and the decision of courts interpreting the same have made innovations on the law mer- it and the law as to commercial paper; as to which, and as to dulent conveyances, sales and transfers, the present law of the e of New York shall be in force in said districts, in all cases within cognizance of said district courts.

EC. 26. *And be it further enacted*, That whenever any person is *icted of any offence*, in either of said district courts, the punishment *urt of the punishment* whereof is imprisonment, by the law now

no jurisdiction of any offence committed prior to the day when, by clamation of the President of the United States, this act shall clared in force within their respective districts, as hereinafter pro but offences committed prior to such time, shall be punished acc to the laws now in force, in the court now having jurisdiction.

SEC. 28. *And be it further enacted*, That bills of exception, v error, and appeals from the decisions of each of said district shall be allowed, and may be taken to the Supreme Court of the States, in the same manner and under the same regulations other district courts of the United States having circuit court juri where the value of the property or the amount in controver ascertained by the oath of either party, or of any other compe ness, shall exceed one thousand dollars; but in cases invol question of title to slaves, such writs of error or appeals shall b to and decided by the said Supreme Court, without regard to of the matter, property or title, in controversy; and from any of either of said courts or the judge of either, upon any writ c corpus, involving a question of personal freedom, a writ o appeal shall be allowed to said Supreme Court.

SEC. 29. *And be it further enacted*, That nothing herein shall be construed to apply to or affect the provisions of the specting fugitives from justice, and persons escaping from the their masters," approved February twelfth, seventeen hur ninety-three, and the "act to amend and supplementary to said act," approved September eighteen, eighteen hundred and the provisions of those acts are hereby declared to ext be in full force within the three Territories hereby created.

SEC. 30. *And be it further enacted*, That the secretary c said Territories shall take the same official oath or affirm hereinbefore prescribed for the governor; and the district jud

dred dollars; the district judge for the districts of Chel-o-kee and Muscogee shall receive an annual salary of twenty-five hundred dollars; the district judge for the district of Chah-ta shall receive an annual salary of two thousand dollars; all of which salaries shall be paid quarterly, from the dates of the respective commissions, at the treasury of United States; but no such payment shall be made until the officer shall have entered upon the duties of his office. There shall also be appropriated, annually, the sum of fifteen hundred dollars, to be expended by the governor to defray the contingent expenses of each Territory, including the salary of a clerk and interpreter in the executive department of each.

SEC. 32. *And be it further enacted*, That the members of the council house of representatives of the Territory of Chel-o-kee; those of senate and house of representatives of the Territory of Chah-ta; those of the council and house of representatives of the Territory Muscogee, (whenever, by act of the general council of the Muscogee nation or Territory, such council and house of representatives shall be organized and the legislative power of the Territory be vested in them,) shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, for not more than twenty days at each session; and three dollars each for every twenty miles' travel in going to and returning from the said sessions, calculated according to the nearest usually travelled land-route; and an extra allowance of two dollars per day, for the same length of time, shall be paid to the presiding officer of each body, for each day on which he shall preside. A chief clerk, an assistant clerk, an interpreter, and a door-keeper may be chosen for each house; and the chief clerk shall receive, for the same length of time, four dollars per day, the assistant clerk and interpreter, each, three dollars per day, and the doorkeeper two dollars per day, during the session of not more than twenty days; but no others officers shall be paid by the United States: *Provided*, That each senate or council shall be paid for no more than sixteen members, if the number of members of such body is larger than sixteen; and each house of representatives shall be paid for no more than twenty-six members, if the number of members of such body is larger than twenty-six; the whole amount of compensation for members of each body being, in case of such excess, apportioned equally among the whole number of its members: *And provided*, That but one session of each legislature shall be so paid for in every two years; unless on an extraordinary occasion, the governor shall think proper to call it together.

SEC. 33. *And be it further enacted*, That there shall be appropriated, biennially, a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislature of each Territory, the printing of the laws, and other incidental expenses; and the governor and secretary of each Territory shall, in the disbursement of all moneys entrusted to them, be governed entirely by the instructions of the Secretary of the Treasury of the United States; and shall, semi-annually, account to the said secretary for the manner in which such moneys shall have been expended; and no expenditure shall be made, out of such funds, by either of said

legislatures, for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 34. *And be it further enacted*, That, until other provision shall be made by law, the seat of government of said Territory of Cherokee shall be at Tah-le-quah, that of said Territory of Muscogee at the Creek agency, and that of said Territory of Chah-ta, at Doaksville, at which places, respectively, the sessions of the legislatures shall be held, and at or near which the respective governors and secretaries shall reside. And the sum of ten thousand dollars, out of any money in the treasury not otherwise appropriated, is hereby appropriated and granted to each of said Territories, to be therein applied, by the respective governors, to the erection of suitable buildings for the accommodation of the legislature and of said district court and its officers, and the officers of the executive department.

SEC. 35. *And be it further enacted*, That all the free citizens of the said several nations, to wit: the Cherokees, Creeks, Seminoles, Choctaws and Chickasaws, resident, or hereafter coming into and settling in said Territories, being of Indian, or Indian and white blood, shall when this act takes effect as to each nation, respectively, become and be citizens of the United States; and the Constitution of the United States shall have the same force and effect within the said Territories as elsewhere within the United States.

SEC. 36. *And be it further enacted*, That a delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected for each of said Territories, by the qualified voters thereof, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other Territories of the United States to the said House of Representatives. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

SEC. 37. *And be it further enacted*, That all officers to be appointed by the President, by and with the advice and consent of the Senate, for each of said Territories, who, by virtue of the provisions of any law now existing, or which may hereafter be enacted, are or may be required to give security for moneys that may be entrused to them for disbursement, shall give such security, at such time and place, and in such manner, as the Secretary of the Treasury may prescribe.

SEC. 38. *And be it further enacted*, That the President of the United States shall be, and he hereby is, authorized to enter into negotiation with the Osage tribe, or great and little Osage bands of Indians, for the purpose of extinguishing the title of said tribe or bands to the strip of country lying between the thirty-seventh parallel of north latitude and the northern line of the country heretofore granted and conveyed to the Cherokees; which narrow tract of country, when purchased from them, shall vest in and belong to the said Cherokee nation of In-

e same manner as the seven millions of acres originally
l conveyed to them, and as if it had originally been an in-
on of said seven millions of acres: *Provided, however*, That
ons belonging to said Osage tribe or bands are settled upon,
ervations upon said strip of land, and do not desire to re-
from, their reservations, or a tract of six hundred and forty
ıd to each head of a family, widow, or man over twenty-
f age, to be surveyed by direction of the President, shall
out of such grant to the Cherokees, and vest in such in-
n fee simple forever; and all persons belonging to said
or bands, who shall so choose to remain in said strip of
uth of the thirty-seventh parallel of north latitude, shall
come citizens of said Territory, and be incorporated on an
g in all respects whatsoever with said Cherokees.

And be it further enacted, That if the Senecas, Senecas and
Quapaws, and any other Indian people or tribe, west of the
ssouri, south of the thirty-seventh parallel of north latitude,
said Territory of Chel-o-kee, as hereinbefore defined, shall
so, and shall in due form and through their proper authority
ir assent, they shall become and be incorporated with the
Territory, and with said Cherokee people, as an integral por-
on an equal footing with the Cherokees in all respects what-
he lands now owned and occupied by them shall in that event
l in and form part of said Territory; but each such people
n sole owner of its lands, and retain its individuality as to
ıd property belonging to it; being in other respects merged
erokees, and becoming citizens of the United States and of
ory, entitled to vote and to hold office, and subject to all
ons of this act and to the laws of said Territory.

And be it further enacted, That the President of the United
l be, and he is hereby, authorized to enter into negotation
mall tribes, for the purpose of procuring their assent so to
rged in and form a part of said Cherokees, and of causing
ry enactments for that purpose to be made, or the neces-
nents entered into; and for the purpose of carrying into
rovisions of this section and of section thirty-eight, the sum
usand dollars is hereby appropriated, out of any money in
y not otherwise appropriated.

And be it further enacted, That whenever the legislature of
ıid Territories shall, by resolution, request it to be done, the
f the United States shall be, and he is hereby, authorized to
whole, or any particular portion of the lands, belonging to
ıs in such Territory, to be surveyed, as the public lands of
States are surveyed; and to that end to appoint a surveyor
said Territories, by and with the advice and consent of the
th power to him to select and appoint the necessary clerks,
veyors and other operatives; whose respective compensa-
be such as are now paid to the surveyor general for Arkan-
the clerks, deputy surveyors and operatives under him.

And be it further enacted, That whenever said lands are
sections numbered sixteen and thirty-six in each township

shall be reserved, by act of the legislature, to constitute a fund for the support of common schools and academies in the respective Territories; and the legislature of each of said Territories shall also set apart seventy-two sections of land for the support and maintenance of one collegiate institution; and the legislature shall be in all future time the sole judge how the residue of such lands shall be disposed of.

SEC. 43. *And be it further enacted*, That each of said legislatures shall be, and is hereby, required to enact proper laws regulating the institution of marriage, making it a contract for life, not dissoluble at the pleasure of the parties, prohibiting polygamy, and providing that divorces shall only be granted by judicial power, for causes previously defined by a general law.

SEC. 44. *And be it further enacted*, That the official acts of all judicial officers in each of said Territories shall have the same effect, and be entitled to the like faith and credit everywhere, as the like acts of judicial officers of the same grade and jurisdiction in any other Territory of the United States; and the proceedings of the courts and tribunals of each of said Territories shall be authenticated like similar proceedings of other courts in the Territories of the United States, and be entitled to the like faith and credit.

SEC. 45. *And be it further enacted*, That so soon as said small tribes, mentioned in the thirty-ninth section, shall become incorporated with said Cherokees, the office of agent for such small tribes shall be abolished; but the several agencies for said other tribes and nations, and the superintendency of Indian affairs south, at Fort Smith, in Arkansas, shall be continued, until the President of the United States may deem it proper and expedient to discontinue the same, and transfer the duties thereof to the several governors of said Territories, or cause them to be otherwise performed.

SEC. 46. *And be it further enacted*, That nothing in this act contained shall be so construed as to release the United States from the payment of any annuities, or payments of any kind, to any of said Indian nations or tribes, or any individuals thereof, or the furnishing of any supplies to which the United States are bound by treaty stipulations; or to impair the rights of any of said nations or tribes, or any individuals thereof, to claim and insist upon the full and exact performance of all such treaty stipulations, and of all contracts and agreements with them, on the part of the United States, contained in any treaties made with any of said nations or tribes; or to impair any treaty stipulations with any of said nations, in behalf of the United States, in regard to military posts, reservations and post roads therein; for all which purposes the individuality of each of said nations shall continue and remain unimpaired; nor shall either of said nations or tribes, or any individuals of either, by assenting to this act, forfeit any just or equitable claims they may have against the United States, on any account or for any cause whatever.

SEC. 47. *And be it further enacted*, That the assent of the said several Indian nations to the provisions of this act shall be evidenced, if given, by an act or law enacted by the national council of the Cherokees, the general council of the Creeks and Seminoles, and the general council of the Choctaws and Chickasaws, respectively, according to the estab-

ed forms and modes of legislation of those nations; which laws shall be enacted until after the expiration of the term of six months from date of the passage of this act; authenticated copies of each of ich acts shall be transmitted to the President of the United States, signatures of the principal or head chiefs of each of said nations ng sufficient authentication. And, to the end that the people of said ions may have ample information as to the provisions of this act, o thousand copies of the same shall be printed in the Cherokee language, two thousand in the Choctaw language, and two thousand in Creek language, if practicable, under the direction of the Commisner of Indian Affairs, and forwarded to the agents for said respective ions, whose duty it shall be to cause the same to be distributed ong the people of said different tribes or nations, at as early a day as cticable; and the sum of two thousand dollars is hereby appropria, out of any money in the Treasury of the United States unappro ated, to pay the expenses of translating and printing the same, to be id to the persons employed, upon the order of the Commissioner of dian Affairs.

SEC. 48. *And be it further enacted*, That whenever the people of e said three Territories shall, by acts of their respective legislatures, onsent to unite together and form one people, and be included in one Territory, they shall be entitled to be erected into a Territory of the United States, to be called the Territory of Neosho, in the same manner as other Territories have been created; and afterwards, when Congress shall be satisfied as to their capacity for self-government, and whenever they open their country to emigration and settlement, they shall e entitled to be erected into a State, by the same name, on the same oting, in all respects, as the original States.

SEC. 49. *And be it further enacted*, That, so soon as the President of he United States shall receive such official information as is hereinbefore provided for, of the assent of said nations, in any one of said Territories, to the provisions of this act, he shall issue his proclamation making known such assent, and directing the organization of such Territory; and shall pursue the same course in regard to each of said Territories, the assent of the nations in which shall be afterwards so made known to him, until all are organized; and such of the provisions of this act, in regard to said respective Territories, as are to await such assent before being in force and operative, shall be in force, as to he proper Territory, from the date of such proclamation.

IN THE SENATE OF THE UNITED STATES.

JULY 28, 1854.—Ordered to be printed.

Mr. CHASE made the following

REPORT.

[To accompany bill S. 484.]

Committee of Claims, to whom was referred the petition of Gad Humphreys, report:

The petitioner claims indemnity for property which he alleges was troyed at Micanopy, in Florida, during the Indian disturbances in 36.

The claim has been repeatedly submitted to the examination of comtees of both houses of Congress, and several reports have been de in favor of the claimant. Two bills granting relief have passed the ate.

t appears that Micanopy was occupied as military post, by the ited States troops, under the command of Colonel Pierce. When was determined to abandon the post, Colonel Pierce ordered all perty which could not be removed to be destroyed, to prevent its ing into the hands of the enemy.

The committee do not admit that a simple order for destruction of perty by a United States officer, constitutes a sufficient foundation a claim to indemnity.

Troops employed for the defence of private property may be withwn when circumstances may require it, and the withdrawal may der it certain that the property will fall into the hands of the enemy, l be lost to the owner. The withdrawal, in that case would not, tain a claim for indemnity. Nor would an order to destroy property, essarily abandoned under such circumstances, in order to prevent falling into the hands of the enemy, sustain such a claim; for the er, in such a case, would not be the cause of the loss.

f, however, troops of the United States are stationed at a particular nt, not for the defence of person or property there, but for the gene- objects of the war, and in consequence of that the attacks of the my are drawn to that point, and it becomes necessary to abandon post, and under such circumstances the commander orders the truction of private property, the committee are inclined to think t the owner ought to be compensated.

In accordance with this view, and in deference to the opinions of ner committees, the committee ask leave to report a bill.

IN THE SENATE OF THE UNITED STATES.

August 1, 1854.—Ordered to be printed.

Mr. Norris made the following

REPORT.

[To accompany Bill S. 486.]

: Committee on the District of Columbia, to whom was referred the petition of William B. Kibbey, report:

The petitioner prays for the payment of $7,211 47, due him for her furnished the United States Penitentiary, in the District of Co-bia.

By the 6th section of the act of Congress, approved March 3, 1829, warden of the penitentiary is authorized to purchase materials for labor of the convicts, and make all needful contracts for supplies essary for the penitentiary; and under this authority the warden, in years 1852, '53, and '54, purchased of William B. Kibbey, of Wash-on city, for the use of the penitentiary, leather amounting to 211 47, which amount is reported to be due in the annual report of warden, made to the President, dated January 16, 1854.

The committee believe the amount justly due, and report a bill for relief.

IN THE SENATE OF THE UNITED STATES.

AUGUST 1, 1854.—Ordered to be printed.

. JAMES, from the Committee on Patents and the Patent Office, reported the following

lex and Digest of Patents, which have been extended or removed by acts of Congress, with a reference to the act in each case:

INDEX.

lamson, John.—Dock, floating, dry; was originally granted on 13th December, 1816; expired 13th December, 1830, and extended 14 years by act March 2, 1831; page 458, vol. 6, Statutes at Large.

chbald, Wm. Aug.—Sugar, improvement in refining. Secretary of State required to issue patent to, on complying with the patent acts; same to be subject to conditions, limitations, &c., of said patent acts; passed April 3, 1828, p. 373, vol. 6.

rron, James.—Corks, patent for making; originally granted January 13, 1819; expired June 13, 1833, and extended July 2, 1836, for 14 years, to his heirs, administrators, and assigns; vol. 6, p. 678; proviso in favor of original purchasers and persons now using.

rron, James.—Pump, air and water; originally granted February 20, 1819; expired February 20, 1833, and extended July 2, 1836, for 14 years, to his heirs, &c.; proviso in favor of original purchasers and persons now using said invention; vol. 6, p. 678.

:htler, Christopher.—Gold washing-machine. Secretary of State authorised and required to issue patent for each of his *two machines*, upon his complying with the patent laws, *except* on part of *aliens* as to oath of residence for two years in United States; act of March 3 1831, p. 468.

l, Wm.—Carriages for cannon for vessels of war. Secretary of State required to issue patent for his improvement in same, on his complying with provisions of patent act except on part of aliens as to oath of two years residence in United States; act May 19, 1828, p. 378.

l, Wm.—Water, depth of, invention for ascertaining in hold of vessels. Secretary of State authorized and required to issue patent on his complying with patent act, except on part of aliens as to oath of residence for two years; p. 378.

Blanc, John.—Marsh drainer; patent originally issued July 2, 1836, and destroyed by fire May 8, 1837. The Commissioner of Patents authorized to issue anew under same regulations as provided by law had said patent been destroyed prior to the 15th December, 1836; act March 3, 1839, p. 767.

Blanchard, Thomas.—Forms irregular, machine for turning; patent originally granted *September* 6, 1819; *re-issued* 20th January, 1820; *expired* September 6, 1833, and extended *as re-issued* January 20, 1834, for 14 years. Proviso in favor of purchasers under old patent granting them benefit of extension, and also in favor of those who had commenced using same after the expiration and before the extension; act February 6, 1839, p. 748; act January 20, 1848, extended 14 years.

Broadmeadow, Simeon.—Air, smoke, gas; method of exhausting, condensing, or propelling. Secretary of State authorized and required to issue patent, upon his complying with usual requirements, and same to be subject to conditions, limitations, and restrictions of the patent laws; act January 25, 1828, p. 370.

Boucherie, Anthony.—Sugar, manufacture of. Shall obtain a patent upon complying with the law, except as to residence of two years; act of January 7, 1808, p. 70.

Brown, Samuel.—Engine for producing power without the use of steam. Secretary of State required to issue patent, upon his complying with the law, except as to residence of two years; act February 28, 1824, p. 293.

Browning, Samuel.—Magnetic separating machine; original patent issued November 25, 1814; expired November 25, 1828, and renewed and extended by act of March 3, 1831, for fourteen years *from the 24th November*, 1828, *(no provisos)* p. 467.

Burden, Henry.—Plow. Secretary of State required to issue patent upon his complying with the law, except as to residence of two years in the United States; act May 15, 1820, p. 250.

Burt, Peter.—Sounding machine. Secretary requtred to issue patent on his complying with the requirements of the law, except so far as they require the residence of aliens for two years in the United States; act March 3, 1825, p. 330.

Bulkley, Elizabeth H., widow of Chauncey Bulkley.—Shovels, spades, and scythes, plan of making. Secretary of State required to issue patent to said Elizabeth, (two-thirds of proceeds to be in trust for the children of inventor,) upon presentation of original specification made by inventor; act February 21, 1828, p. 371.

Dyster, J. J.—Bridges, iron. Secretary of State required to issue patent, upon his conforming to requirements of the acts, &c., except that two years' residence shall not be required of him; act April 17, 1800, p. 87.

Eastman, Robert.—Clap-board machine—circular-saw; original patent issued to Robert Eastman and Josiah Jacquith, March 16, 1826, renewed and extended to Robert Eastman March 3, 1835, for

seven years from the 15th March, 1834, (*no proviso whatever*,) p. 613.

Evans, Oliver.—Engines, steam; original patent issued February 14, 1804, and by act of February 7, 1815, extended for *seven years* from the date on which the patent would expire, provided *no greater sum* shall be received by inventor for its use under the extension than charged under old patent; act February 7, 1815, p. 147.

Faunce, John W., & Oliver Perrin.—Commissioner of Patents authorized to issue a patent on specification filed if he is satisfied of originality in applicants, upon their depositing a model and fee; act July 20, 1840, p. 807.

Gale, Wm.—Spoons and forks of silver, manufacture of. So much of the law as prohibits the extension of a patent after the expiration of the term for which it was issued, suspended so far to authorize the renewal of his patent, subject, however, to all other conditions and restrictions of the act; act of March 3, 1843, p. 895.

Garsed, Joshua.—Spinning of flax, hemp, and formation of the sliver in. Secretary of State required to issue patent as if said Joshua were a citizen, he complying with all requirements of the law, except two years residence in United States; act May 7, 1822, p. 270.

Hall, Samuel.—Piston and valve for steam engine, &c., &c. Secretary of State directed to issue patent to said Hall, who is an alien residing in Great Britain, he complying with the provisions of the law except as to residence: Provided, that notice for repeal of the patent may be served on clerk of the district court for the southern district of New York; act March 2, 1833, p. 547.

Hermange, Anthony.—Propelling ships, machinery for. Secretary of State to issue patent to said Anthony, he being a resident, upon making oath that he and Paul Steenstrap, of Norway, invented the machinery, and otherwise complying with the act, p. 375; April 28, 1828.

Holden, Rich'd.—Mechanical powers, combination of, for producing motion and power to machinery, &c. Secretary of State to issue patent same as if he had resided for two years in United States; act May 7, 1822.

Jones, James.—Rovings, &c. Secretary of State authorized to issue patent same as if he had resided two years in the United States; act March 3, 1835.

Jennings, Samuel K.—Generating heat; patented in 1814, and extended March 3, 1843, for 14 years.

Kurtz, Andrew.—Charcoal of wood, manufacture of. Secretary of State to issue patent same as if he had resided two years in *United States*; act April 2, 1816, p. 160.

Knowles, Thomas.—Cotton-thread, machine for spinning, &c.; patent to be issued to said Knowles, a resident of Manchester, England, same as if he was a resident citizen: Provided said patent to be void if not introduced into public use in United States within two years, or in case same shall not continue to be publicly used for any one period of six months after introduced, or in case proper models shall not be deposited within six months in the Patent Office; act July 4, 1832, p. 502.

Lang, James.—Spinning rope yarn, &c., machine for; patent to be issued to said Lang, a resident of Scotland, same as if he was a resident of the United States: Provided said patent to be void if not introduced into public use in United States within two years, or in case same shall not continue to be publicly used for any one period of *six months* after being introduced, or in case proper models shall not be deposited within six months in the Patent Office; act July 4, 1832, p. 502.

Oxley, Thomas.—Land clearing machine; patent to be issued by Secretary of State, same as if he had resided two years in United States, upon his complying with other provisions of the patent acts; act March 3, 1821, p. 261.

Parker, Samuel.—Leather-finishing, currying, &c.; one original patent issued July 9, 1808, and one April 26, 1809; both extended; the renewal and extension to take effect from and after the date of the expiration of the last patent. This extension granted two years before the last patent expired; (no proviso;) act of March 3, 1821, p. 262.

Perrin, Oliver and John W. Faunce.—See latter.

Pettibone, Daniel.—"Bullet-mould, circular." Secretary of the Treasury authorized to pay the heirs of Daniel Pettibone $5,000 in full consideration for the use of the "circular bullet-mould," invented by the said Pettibone in the military service: Provided, the heirs convey all their interest, &c., to same, to the United States; act of July 6, 1842.

Powell, John.—Gold separator. Secretary of State to issue patent on compliance with provisions of existing laws; except residence of two years. February 12, 1831, p. 452.

Rivafinoli, Vincent de.—Ores, washing of, &c. Secretary of State to issue patent to him and Charles Harseben, and William Davis, of Great Britain, as joint inventors: Provided, that the Secretary of State is satisfied they are the inventors; and provided they comply with existing laws, except as to residence of two two years; act of May 28, 1830, p. 435.

Steel, William.—Engines, steam; patent to be issued to said Steel same as if a resident of the United States, (he being in Liverpool and a subject of Great Britain:) Provided, said patent to be *void* if it is not introduced into public use in the United States within *two years*; OR, in case the same shall not continue to be publicly used for any one period of *six months* after introduced; OR, in

case proper models shall not be deposited within six months in the Patent Office; act of July 4, 1832, p. 502.

aw, Moses.—Blasting rocks. Secretary of State to issue patent same in all respects as if he had resided in the United States for two years.

›bie, R. S.—Rudder for ships; patent to be issued by the Secretary of State same as if he was a resident for more than two years, upon his complying with the other requirements of the act of March 19, 1816, p. 159.

afford, H. G.—Mechanical philosophy. Secretary of State to file in secret archives the specifications, drawings, &c., for one year, and the patent issued thereon to have same effect as if issued in accordance with act of February 21, 1793; act July 3, 1832, p. 502.

.vester, Nathaniel.—Paper prepared to prevent fraud in bank checks; patent to issue by the Secretary of State, same as if he had resided for two years in the United States; act of May 26, 1826, p. 318.

lbot, E. A.—Reciprocating engines; patent to be granted to him upon his complying with requirements of law, except as to residence; act of May 23, 1828.

›tt, A. G.—Dye for coloring cloths; patent to be issued by the Secretary of the Treasury, same as if he had resided two years in the United States; p. 320.

jon, Bernard E.—Sugar refining; patent to issue without requiring two years' residence; act of May 19, 1816, p. 159.

ırburg, Frederick S.—Candlesticks, lamps, &c.; patent to issue same as if a citizen of the United States, on his complying with all other provisions, except oath of citizenship; act of May 7, 1822, p. 277.

lcox, Richard.—Ovens, distillation, &c.; patent to issue in like manner and effect as if he had resided two years in the United States; April 5, 1820, p. 240.

ıittemore, Amos and William.—Cards for manufacturing wool and cotton; original patent granted 5th June, 1797; expired June 5, 1811, and extended for fourteen years, from the 5th day of June, 1811, by act of March 3, 1809, p. 80.

›od, Jethro.—Plow; original patent dated September 1, 1819; extended for fourteen years, from August 31, 1833: Provided, former purchasers are to have the benefit of extension upon same terms as originally granted; and provided, the price to future purchasers shall not be advanced; act of May 19, 1832, p. 486.

›odworth, William.—Planing machine; patent originally granted December 27, 1828; extended for seven years, from December 27, 1849, and was previously extended for seven years, from the 27th of December, 1842, to the 27th of December, 1849, by the *Commissioner of* Patents, (p. 936;) and by act of February 26, *1845, extended* seven years; expires December 27, 1856.

Air, smoke, gas.—Method of exhausting; patent to issue to Simeon Broadmeadow, upon his complying with requirements of the laws relating thereto; act of January 25, 1828, p. 370.

Bridges, Iron.—Secretary of State required to issue patent to J. J. Dyter, an alien, upon his complying with the laws, except as to citizenship; p. 87, act of April 17, 1800.

Bullet-mould, circular.—Secretary of the Treasury required to pay the heirs of Daniel Pettibone $5,000 in full consideration for the use of the "circular bullet-mould," invented by him in the military service: Provided, the heirs convey all their interest, &c. to the United States; act of July 6, 1842.

Carriages for cannon for vessels of war.—Secretary of State to issue patent to William Bell, on his complying with laws, except as to oath of residence; act of May 19, 1828, p. 378.

Corks.—Patent for making; originally granted to James Barron, January 13, 1819; extended July 2, 1836, for four years, to his heirs and assigns, with proviso in favor of purchasers and persons now using; p. 678.

Candlesticks, lamps, &c.—Patent issued to Frederick S. Warburg, same as if he was a resident of the United States; act of May 7, 1822, p. 277.

Cards for manufacturing wool and cotton.—Issued to Amos Whittemore and William Whittemore, June 5, 1797; and extended for fourteen years, from June 5, 1811, by act of March 3, 1809, p. 80.

Charcoal of wood, manufacture of.—Secretary of State issued patent to Andrew Kurtz for same; residence of two years not required by act of April 2, 1816, p. 160.

Cotton-thread, machinery for spinning, &c.—Patented to Tho s Knowles, a resident of Manchester, England, same as if he was a resident citizen: Provided, said patent to be void if not introduced into public use in the United States within two years; OR, in case the same shall not continue to be publicly used for any one period of six months after introduced; OR, in case proper models shall not be deposited within six months in the Patent Office; act July 4, 1832, p. 502.

Clap-board machine by use of circular saw.—Original patent issued to Robert Eastman and Josiah Jacquith, March 16, 1820; renewed and extended to Robert Eastman, by act of March 3, 1835, for seven years, from March 15, 1834, p. 613. (No proviso whatever.

Dye for coloring cloths.—Patented to A. G. Trott, an alien; act of February 5, 1825, p. 370.

Dock, floating, dry.—Originally granted to John Adamson, December 13, 1816; expires December 13, 1830, and extended fourteen years, by act of March 2, 1831, p. 458.

Engine, for producing power without use of steam.—Secretary of State required to issue patent to Samuel Brown, upon his com

plying with law, except as to residence of two years; act of February 28, 1824, p. 293.

ıgine, steam.—Patent to be issued to William Steel, same as if a resident of the United States, (he being in Liverpool and a subject of Great Britain:) Provided, said patent to be *void* if it is not introduced into public use in the United States within two years; OR, in case the same shall not continue to be publicly used for any one period of *six months* after introduced; OR, in case proper models shall not be deposited within six months in the Patent Office; act of July 12, 1832, p. 502.

ıgines, steam.—Original patent issued to Oliver Evans, February 14, 1804; and by act of February 7, 1815, extended for seven years, from the date on which the patent would expire: Provided, no greater sum shall be received by inventor for its use, under extension, than the charge under old patent; act of February 7, 1815, p. 147.

ırms, irregular, machine for turning.—Patent originally granted September 6, 1819, to Thomas Blanchard; reissued January 20, 1820; expired September 6, 1833, and extended *as re-issued* January, 20, 1834, for fourteen years. Proviso in favor of purchasers under old patent, granting them benefit of extension; and also in favor of those who had commenced using the same, after the expiration and before the extension; act of February 6, 1839, p. 748.

ıld separator.—Secretary of State to issue patent to John Powell, on his complying with the provisions of existing laws, except as to residence of two years; act of February 12, 1831, p. 452.

ıld washing machine.—Secretary of State authorized and required to issue patent to Christopher Bechtler for each of his *two machines*, upon his complying with patent laws, except on part of aliens as to oath of residence for two years in the United States; act of March 3, 1831, p. 468.

ıat generating.—Samuel K. Jennings; granted in 1814; extended in 1843, for fourteen years.

ınd-clearing machine.—Patent to be issued to Thomas Oxley by the Secretary of State, same as if he had resided two years in the United States, upon his complying with other provisions of the patent act; act March 3, 1821, p. 261.

ıather finishing, currying, &c.—*Two patents*—one originally issued July 9, 1808, and one 26th April, 1809, to *Samuel Parker*. Both extended, the renewal and extension to take effect from and after the date of the expiration of the last patent. *Note.*—This extension granted two years before the last patent expired; no proviso; act March 3, 1821, p. 262.

agnetic separating machine.—Original patent issued November 25, 1814, to *Samuel Browning;* expired November 25, 1828, and *renewed and extended* by act of March 3, 1831, for fourteen *years from the 24th November*, 1824; (no proviso, p. 467.

Marsh-drainer.—Patent originally granted July 2, 1836, to *John Blair*, and destroyed by fire May 8, 1837. The Commissioner of Patents authorized to issue anew under same regulations, as provided by law, had said patent been destroyed prior to the 1st December, 1836; act March 3, 1839, p. 767.

Mechanical philosophy.—Secretary of State to file in his secret archives *H. G. Spafford's* specifications and drawings, &c., for one year, and the patent issued thereon to have the same effect as if issued in accordance with act of February 21, 1793; act July 3, 1852, p. 502.

Mechanical powers, combination of, for producing motion and power to machinery, &c.—Secretary of State to issue to *Richard Holden* a patent for same as if he had resided for two years in the United States; act May 7, 1822.

Ovens, distillation, &c.—Patent to issue to *Richard Wilcox* in like manner and effect, as if he had resided two years in the United States; act April 5, 1820, p. 240.

Ores, washing of.—Secretary of State to issue to *Vincent Rivafinoli*, and *Charles Harseleben*, and *William Davis*, of Great Britain, as joint inventors, *provided* that the Secretary of State is satisfied they are the inventors, and *provided* they comply with existing laws, except as to residence of two years in the United States; act May 28, 1830, p. 435.

Paper prepared to prevent fraud in bank checks.—Patent issued by Secretary of State to *Nathaniel Sylvester*, same as if he had resided two years in the United States; act May 26, 1826, p. 318.

Piston and valve, for steam engine, &c.—Secretary of State decided to issue patent to *Samuel Hall*, who is an alien residing in Great Britain, he complying with provisions of the laws, except as to residence, *provided*, that notice for repeal of the patent may be served on the clerk of the district court for the southern district of New York; act March 2, 1853, p. 547.

Propelling ships, machinery for.—Secretary of State to issue patent to *Anthony Hermange*, he being a resident, upon his making oath that he and Paul Steenstrap, of Norway, invented the said machine, and otherwise complying with the existing patent laws: April 28, 1828, p. 375.

Plow.—Secretary of State to issue patent to *Henry Burden*, on his complying with the existing patent laws, except as to residence of two years in the United States; act May 15, 1820, p. 250.

Plow.—Original patent issued to *Jethro Wood*, dated September 1, 1819. Extended for 14 years from 31st August, 1833, *provided* former purchasers are to have benefit of extension upon same terms as originally granted; and, *provided*, the price to future purchasers shall not be advanced; act May 19, 1832, p. 486.

Planing Machine.—Patent orginally granted to *Wm. Woodworth*, 27th December, 1828. Extended by Commissioner of Patents, for 7 years from 27th December, 1842, and extended by act of Feb-

ruary 26, 1844, (p. 936,) for seven years from 27th December, 1849, and expires 27th December, 1856.

ump, air and water.—Originally granted February 20, 1819, to *James Barron*; expired February 20, 1833, and extended July 2, 1836, for 14 years, to his heirs, &c.: *Provided*, in favor of original purchasers and persons now using second invention; p. 678

eciprocating engines.—Patent to be granted *J. A. Talbot*, upon his complying with requirements of law, except as to residence; act May 23, 1828.

oving, &c.—Secretary of State to issue patent to *James Jones*, same as if he had resided two years in the United States; act March 3, 1835.

udder for ships.—Patent to issue to *R. S. Stobie*, upon his complying with patent laws, except as to residence; act March 19, 1816, p. 159.

ounding machines.—Patent to issue to Peter Burt upon his complying with laws, except as to residence of two years; act March 3, 1825, p. 330.

ovels, spades and scythes, plan of making.—Patent to issue to *Elizabeth H. Bulkley*, two-thirds of proceeds of patent to be in trust for the children of her husband *Chauncy Bulkley*, upon presentation, &c., of original specification of the inventor; act February 21, 1828, p. 371.

inning rope, yarn, machine for.—Patent to issue to *James Lang*, a resident of Scotland, same as if he was a resident of the United States: *Provided*, said patent to be void if not introduced into public use in the United States within two years, or in case the same shall not continue to be publicly used for any one period of *six months* after introduced, or in case proper models shall not be deposited within six months in the Patent Office; act July 4, 1832, p. 502.

oons and forks of silver, manufacture of.—So much of the law as prohibits the extension of a patent after expiration of the term for which it was granted.—Suspended so far as to authorise the removal of a patent issued to *William Gale*, subject, however, to other conditions, &c., of the patent acts, &c.; act March 3, 1843, p. 895.

inning of flax, hemp, and formation of the sliver in.—Secretary of State to issue patent to *Joshua Garsed*, same as if he were a citizen, he complying with other requirements of law, except as to residence of two years; act May 7, 1822, p. 270.

gar, improvement in refining.—Patent to issue to *Wm. Augustus Archbald*, on his complying with the patent laws, and same to be subject to conditions and limitations, &c., of said acts, passed April 3, 1828, p. 373.

gar refining.—Patent to issue to *Bernard* E. Vernon without requiring *two years* residence; act May 19, 1816, p. 159.

Sugar, manufacture of.—Patent to issue to *Anthony Bouchine*, his complying with law, except as to two years residence January 7, 1808, p. 70.

Water, depth of in holds of vessels, invention for ascertaining.—S tary of State authorised to issue to *William Bell* a pater his complying with laws, except as to two years' residen 378.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 383.

IN THE SENATE OF THE UNITED STATES.

August 2, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

The Committee on Private Land Claims, to whom was referred the "petition of William W. Gitt, assignee of land warrants lost, and praying an act au thorizing the Commissioner of the General Land Office to issue other warrants in his favor," have had the same under consideration, and submit the following report:

It appears that John Ordway, Silas Goodrich, and J. Baptiste Le Page were companions of Lewis and Clark, in their explorations of the Rocky mountains, and to whom, under the act of Congress approved March 3, 1807, there were isued three several land warrants, numbered, respectively, three, fourteen, and twenty-three, each for three hundred and twenty acres of land; that, prior to the passage of the said act—that is to say, on the 29th September, 1806—the said Silas Goodrich and J. Baptiste Le Page transferred to John Ordway, by instruments in writing (duly certified copies of which accompany the papers in this case,) all their right and interest in and to any lands that should be granted them, or any warrant or warrants therefor, in consideration of their services in the expedition aforesaid; that, by virtue of the said transfer, it is alleged that the warrants Nos. 14 and 23 became the property of the said Ordway. To this allegation the committee must dissent. Admitting that the transfers were legal, which they could not have been, it would have been necessary that such transfers should have been attached to said warrants, respectively; but it does not appear that said warrants ever came into the possession of the said Ordway, or that any transfer or transfers had ever been endorsed thereon.

The petitioner alledges that all of said warrants have been lost or destroyed, and claims the right to the said warrants by a deed from Isidore Johnson, who inherited the estate of his half-brother and sister, John Ordway, jr., and Hannah Ordway, who were children and heirs-at-law of the said John Ordway, deceased.

The committee are in possession of a letter from the Commissioner of the General Land Office, in which he makes use of the following language: "Moreover, warrant No. 14, in the name of Silas Goodrich, was received in payment for lands, at the land office at Jackson, Missouri, in the first quarter of 1822, and was then fully satisfied.

"No. 23, in the name of John B. Le Page, two hund ed acres of th

warrant was satisfied at the land office at Ouachita, Louisiana, and the receiver credited with the amount in the second quarter of 1830. I have not been able to find that the remaining one hundred and twenty acres of this warrant, or any part of No. 3, has been satisfied. It does not follow, however, by any means, that they have not been. To determine the fact with certainty, would require the examination of every voucher of every account of every receiver west of the Mississippi, from 1807 to the present time. * * * * *

A cursory examination of the records since 1807, pursued as opportunity permitted, having developed the fact that one of these warrants has been lawfully satisfied, and five-eights of another, the inference is fair that the whole have been satisfied; especially when the warrants themselves have not been presented. * * * I am clearly of opinion that a bill should not be passed granting the relief asked for."

In consideration of the fact that said petitioner can have no legal claim to warrants numbered 14 and 23; and as he is only a remote grantee for a nominal consideration of warrant No. 3, all of which he represents as not having been satisfied, and were lost; and from the further consideration of the recommendation and suggestions of the Commissioner of the General Land Office, the committee are of opinion that the relief prayed for should not be granted; they therefore report back the petition and ask to be discharged from its further consideration.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 384.

IN THE SENATE OF THE UNITED STATES.

August 2, 1854.—Ordered to be printed.

Mr. Pettit made the following

REPORT.

The Committee on Private Land Claims, to which was referred the petition of Martin Fenwick, praying for confirmation of his title to a certain tract of land, have had the same under consideration, and submit the following report:

The petitioner alleges that the application in his name, for confirmation of his claim, before the commissioners appointed to adjust the titles to private land claims, in the Territory of Missouri, was made without his knowledge, authority, or consent; upon referrence, however, to the action of the said board, Senate document No. 16, 1st session 24th Congress, pages 399, 400, and 401, the committee find that the claim of Martin Fenwick was duly considered and acted upon; and the said board came to the following decision thereon: "The board are unanimously of the opinion that this claim is destitute of merit; an alteration being apparent in the original petition on file, as noted in the translation; the name of the river, A Brazeau, having been altered into that of river a la Viande, alias St. Côme, thus increasing the distance for location of grant several miles; and the *conditions* not having been complied with."

The committee very much doubt the policy of again opening those claims, or disturbing the decisions of the commissioners, after a full investigation of all the facts connected with such claims.

The committee, therefore, must respect the decision of the said board, and report adversely to the claim of said petitioner.

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 385.

IN THE SENATE OF THE UNITED STATES.

August 2, 1854.—Ordered to be printed.

Mr. Butler made the following

REPORT.

'he Committee on the Judiciary, to whom was referred the following preamble and resolution of the Senate, have had the same under consideration, and report:

Whereas, the Hon. Jared W. Williams was appointed by his excelncy the governor of New Hampshire, in the recess of the legislature ' that State, to fill a vacancy in the Senate of the United States, which ad happened by the death of the Hon. Charles G. Atherton, a senator, 'hose term of service would have continued till the 4th of March, 1859; ıd whereas it is understood that since that temporary appointment was ıade the legislature of New Hampshire has been convened at their 'gular session, and has adjourned to the last Wednesday of May next, 'ithout filling such vacancy, and that said State still claims a right of 'presentation under said appointment, which the appointee is not at berty to surrender by his act without the action of the Senate: at his 'quest, therefore,

Resolved, That the subject be referred to the Committee on the Juiciary, to inquire into the facts connected with it, and to make such 'port as they deem proper to enable the Senate to determine whether ıe right of representation under said appointment has expired.

Under this resolution the committee are required to inquire into the ıcts connected with the case, and to make such report as they deem roper, to enable the Senate to determine whether the right of repreentation under said appointment had expired.

As the question to be determined must depend in a great measure n the proceedings of the legislature and constitution of New Hampıire, the committee submit the following as a part of their report, havıg a bearing on the case:

COMMUNICATION FROM THE GOVERNOR TO THE LEGISLATURE.

'o the Senate and House of Representatives:

I have signed all the bills and resolutions which you have passed ıe present session, and presented for my approval, (except the bills ıd resolutions which I have returned to the House of Representatives. 'ith my objection thereto,) and having been informed by a joint cor

mittee of both branches of the legislature that you have finished the business before you, and are ready to adjourn, by the authority vested in me I do hereby adjourn the legislature to the last Wednesday of May next."

N. B. BAKER.

COUNCIL CHAMBER, *July* 15, 1854.

Constitution of New Hampshire.—Page 23.

"The Senate and House shall assemble every year on the first Wednesday of June, and at such other times as they may judge necessary; and shall dissolve and be dissolved seven days next preceeding the said first Wednesday of June, and shall be styled the general court of New Hampshire."

From the language of the governor's communication to the legislature, it seems to have been his judgment that the session had closed; and from the language of the constitution, it would appear that it will have terminated on the day mentioned, as by another provision of the constitution, the governor on the same day is required to dissolve the legislature. In this view of the subject, in *propiro vigore*, the legislature had no power of assembling from the time of its adjournment, as announced by the governor, until the last Wednesday of May next, when its existence terminated.

There was a power in the governor, should the general welfare require it, to call the legislature together as an existing body. But when so called together, what would have been the character of such a meeting? Would it not have been a distinct session, carrying with its acts and doings all the incidents of a *separate* session? Such would seem to be a fair inference. This being conceded, then it would follow, that the late legislature did adjourn *sine die*, in the legal import of the term. If this is a legitimate conclusion, this case cannot, in any particular, be distinguished from that decided by the Senate in the case of the Hon. Samuel S. Phelps, a senator from Vermont, and the committee refer to that case as the authority for their conclusion in the case under consideration.

In response to the resolution, the committee are of opinion that "the right of representation under the appointment" has expired.

CONGRESS, [SENATE.] REP. COM.
t Session. No. 386.

IN THE SENATE OF THE UNITED STATES.

ST 2, 1854.—Ordered to be printed, and that 5,000 extra copies be printed for the use of the Senate.

Mr FISH made the following

REPORT.

[To accompany Bill S. 489.]

Select Committee appointed under an order of the Senate of the United tates, passed on the 7th of December, 1853, "*to consider the causes and e extent of the sickness and mortality prevailing on board the emigrant ips on the voyage to this country, and whether any, and what, legislation needed for the better protection of the health and lives of passengers on ard such vessels*"—*to whom were also referred a petition of the American Iedical Association, and a petition of inhabitants of New York—respectlly report:*

nder a full sense of the importance of the matter submitted to their ideration, as well as with reference to the business interests of the ıtry as to the cause of humanity at large, the committee have ed no trouble in collecting information from such sources as ap- ed to them best entitled to their confidence and respect. With a r to the procuration of accurate *data* upon which to form a correct ment in the premises, a circular was prepared containing fourteen ıtions relative to the police and sanitary management of emigrant s, to which specific answers, based as far as practicable upon exence, were requested. Copies of this circular were addressed and to members of the medical profession, (whose opportunities of ing correct opinions on the subject had been furnished by expece, and therefore are entitled to consideration,) merchants, navigawho had been engaged in the passenger trade, persons connected the collection of the customs, presidents of benevolent societies he relief of indigent emigrants, and others throughout the country in the cities at which the landing of foreign passengers has chiefly n place. The answers which have been received to these comications are very numerous, and, in many instances, drawn up great ability, particularly those from physicians, who, referring to diseases which have caused the suffering on board of passenger s, have very properly deemed it necessary to treat of their nature the causes which have given rise to them.

ı disposing of the information thus brought under their considera-, the committee have deemed it best to adopt the course indicated he order under which they were appointed, and to treat the subject r three distinct heads, to wit:

1st. The diseases on board of emigrant ships, and their causes.
2d. The extent of the sickness and mortality.
3d. The means of prevention.

According to the information laid before the committee, the three diseases by which passenger ships have been chiefly scourged, are—typhus, or ship fever, as it is called when it takes place at sea, cholera, and small-pox.

Of the first named of these, typhus or ship fever, it is said that "it is the product of a miasm as distinct as that of marshes, which produces intermittent fever; and this miasm is itself as necessary a result of certain prior circumstances as the marsh miasm is the product of marshes. And further, the means for its prevention are as clear and controllable in the one case as the other. Thus, if an offensive marsh be thoroughly drained and dried, its peculiar miasm, and the disease which it caused, will disappear; and so, by preventing the formation of the miasm of ship fever, (as easy of accomplishment as the other,) that disease will in like manner be prevented or avoided."

The circumstances referred to are stated to be:

1st. The confinement of a number of people together in apartments disproportioned in size to their requirements of wholesome respiration.

2d. The retention in the same apartments of the excretions from the bodies of individuals thus confined; such as the matter of perspiration, the carbonic acid gas and moisture from the breath, and other more offensive excretions. These, acted on by the artificial heat of the apartment, or even by the natural heat of the bodies alone, will become decomposed and produce an effluvium which will react poisonously on the persons living in it.

3d. Too great exclusion of pure air.

Some, if not all, of these causes are found to exist on board of every passenger ship in a greater or less degree, and the consequence has been the mortality which has taken place of late years, the weakness and enfeebled condition of emigrants generally at the time of embarkation, operating as a predisposing cause of the evil, by rendering them less able to resist the impression of the poison existing on board of ship.

It appears to be a peculiarity of this miasm that it attaches itself to everything that it touches—to clothing, bedding, furniture, and the walls of apartments—by which it is absorbed, and becomes more virulent in its action in proportion to the length of time during which it is permitted to remain. It is stated, upon the highest authority, that this poison may last in "fomites" for six months, and even for two or three years. Dr. Wilson Phillip, in his standard and elaborate work on fevers, in his chapter on typhus, says:

"Fomites often retain contagion for a great length of time, and may convey it any distance. It is a general opinion that *fomites* more readily communicate the disease, and convey it in a *worse form*, than the sick themselves." Dr. Cullen says "the effluvium constantly arising from the living human body, if long retained in the same place without being diffused in the atmosphere, acquires a singular virulence." And Dr. Parr, in his medical dictionary, asserts that "fevers caught by recent infection are mild compared with those which arise from contagion long pent up, styled *fomites*."

3d Congress, 1st Session. [SENATE.] Rep. Com. No. 387.

IN THE SENATE OF THE UNITED STATES.

August 3, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 490.]

The Committee on Foreign Relations, to whom was referred the petition of Betsey W. Eve, widow of Joseph Eve, praying to be allowed certain expenses incurred by her late husband while chargé d'affaires to the late republic of Texas, have had the same under consideration, and respectfully report:

That it appears from a letter of the Secretary of State that, owing to some error in the adjustment of his salary account, Mr. Eve was entitled to compensation for seven days not embraced therein; that, dying three days after presenting his letter of recall, his estate should be allowed his funeral expenses; and further, that if his wife or any member of his family were with him at the time of his death, that he would be entitled to one quarter salary for return. It also appears that, upon the adjustment of his accounts at the Fifth Auditor's office, there was a balance reported due from him of $531 99 on his account for salary, and there was an additional item of $206 50, which had been suspended in adjusting his contingent account for want of vouchers which Mr. Eve promised to obtain and forward, but died before he was enenabled to do so. The secretary adds: "Mrs. Eve, having sought relief from Congress, cannot now, it is believed, obtain an adjustment of her accounts unless Congress authorises it."

It further appears from a certificate of Hon. J. Hamilton, filed with the papers, that Mrs. Eve was with her husband at the time of his death, and therefore, according to usage in such cases, his estate is entitled to one quarter return salary.

The committee are of opinion that any just claim which the petitioner may have against the United States should not be prejudiced by the fact of her applying to Congress; and, believing that upon the proper adjustment of the accounts of her late husband the claim will be found to be just, they report a bill accordingly, and recommend its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 388.

IN THE SENATE OF THE UNITED STATES.

August 3, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

[To accompany Bill S. 491.]

The Committee on Foreign Relations, to whom was referred the memorial of Samuel A. Belden & Co., claimants against Mexico, under the treaty of Guadalupe Hidalgo, for losses and damages sustained by them in the confiscation of merchandise by the officials of the Mexican republic, and praying that measures may be adopted to secure the payment of their claim, have had the same under consideration, and report:

That this case was referred to this committee during the first session of the 32d Congress, and a report made upon it on the 20th July, 1852. In which report, No. 303, the committee then said:

"It would seem from the proofs adduced by the petitioners, that they were fully warranted in importing said tobacco into Mexico, under the authority and by permission of the military authorities of the United States in possession at that time; that after the peace, the right so to have done was fully recognized by the Mexican authorities, and proper permits and protections issued by them, to assure its protection under the provisions of the nineteenth article of the treaty of Guadalupe Hidalgo; notwithstanding all which, the tobacco was seized in the absence of its owners, and confiscated by a judicial decree, and, in addition, a heavy fine was imposed on them by the same tribunal, to pay which, a large stock of merchandise and other property belonging to the petitioners was seized, and the whole terminated by an order for their arrest and imprisonment."

And they added further:

"The committee is of opinion, from an examination of the papers, that a most flagrant violation of the treaty stipulations referred to has been committed by the judicial department of the government of Mexico, in the case of these petitioners, resulting in heavy loss to them, for which that government is strictly responsible."

The committee still entertaining the opinion expressed in that report, hereby reaffirm and adopt the same as part of this report, and earnestly recommend that the Executive shall take such measures in regard to this and similar cases of outrage upon the rights of our citizens, in violation of the treaty stipulations referred to, as shall ensure adequate redress for the past, and ample security against the recurrence of similar infractions of said treaty in the future; and the obligation to do

would seem to be rendered the more imperative, by the fact, that in treaty recently negotiated between our government and that of Mex no provision was made for such cases.

The committee are further of opinion, that inasmuch as the tob in this case was originally carried into Mexico whilst that country in the military occupancy of our government, under the invitation of Secretary of the Treasury, with a view of increasing the reve thereby, and the duties thereon regularly paid into the treasury of United States; and inasmuch as the said tobacco was subseque seized and confiscated by Mexican authority in violation of the stip tions of the nineteenth article of the treaty referred to, it would se reasonable to refund to the memorialists the duties thus paid by th on the said tobacco, upon the condition that they shall first make execute a proper and legal assignment to the United States of all th right to the amount so refunded when recovered from Mexico.

In accordance with these views, they report a bill, and recomme its passage.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 389.

IN THE SENATE OF THE UNITED STATES.

August 3, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

The Committee on Foreign Relations, to whom was referred the memorial of Charles D. Arfwedson, late United States consul at Stockholm, asking compensation for diplomatic services, have had the same under consideration and report:

It appears from the journals of the first session of the thirty-second Congress that the memorialist presented his application for the compensation of a chargé d'affaires at Stockholm, from the 24th July, 1849, to the 22d April, 1850, a period of eight months and twenty-nine days; that the memorial was referred to this committee, and upon their motion a provision was inserted in the general civil and diplomatic appropriation bill directing the payment to the memorialist of the sum of $1,681 25 in full for all such services for the period named, that sum being one-half of the salary of a chargé d'affaires for the same period.

The committee are aware that in cases of a full mission, where the duties of the legation have devolved upon the secretary, during the temporary absence of the minister, it has been usual to allow such secretary the salary of a chargé d'affaires, or one-half of the salary of the minister for the time thus acting. But they are not aware of any case in which the person merely temporarily in charge of a legation has for the time received the full salary of the head of a mission. The mission at Stockholm was but that of a chargé d' affaires, the full salary of which was $4,500 per annum. One half of that salary has already been allowed to this memorialist for the time he acted as chargé d'affaires. To allow him the additional compensation now asked would be a departure from the previous practice in such cases, which the committee are not prepared to recommend. They, therefore, ask to be discharged from the further consideration of this claim.

3 Congress, [SENATE.] Rep. Com.
1st Session. No. 390.

IN THE SENATE OF THE UNITED STATES.

August 3, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

he Committee on Foreign Relations, to whom was referred the memorial of Joseph Balesteir, late special agent of the United States in Asia, have had the same under consideration, and report:

That in March, 1852, Mr. Balesteir presented a memorial to Congress, praying the allowance of certain expenses incurred by him in the rformance of the duties of his said agency, previously rejected in the ttlement of his accounts at the Department of State, and also for an tension of the time for the continuance of his salary. In that memoıl, no claim whatever was asserted for reimbursing the premium of change upon London, now demanded. In the general civil and plomatic appropriation act of that session, full provision was made r all the claims then asserted.

If this claim were a just and proper one, it should have been prented in the first memorial, together with the others rejected at the deırtment, without some good reason for the delay in its assertion, which es not appear either in the memorial itself or the papers accompanyg it. The committee are not disposed to reopen this case. Such a ecedent might, and probably would, lead to great inconvenience, by lding out an inducement to claimants, under various pretexts, to conıue to besiege Congress, from year to year, for additional allowances, en after all to which they were justly entitled had been previously anted. They, therefore, ask to be discharged from its further considation.

33d Congress, 1st Session. [SENATE.] Rep. Com. No. 391.

IN THE SENATE OF THE UNITED STATES.

August 3, 1854.—Ordered to be printed.

Mr. Mason made the following

REPORT.

The Committee on Foreign Relations, to whom was referred the memorial of H. Gold Rogers, late chargé d'affaires of the United States at Sardinia, have had the same under consideration, and respectfully report:

That it appears from a letter of the Secretary of State, dated July 18, 1854, and written in reply to inquiries made of him by the committee, that "the claims preferred in this memorial have been urged by Mr. Rogers for many years with singular pertinacity, and have been considered and decided by this department, and by the proper accounting officers of the government, again and again. They have been definitively settled by the Fifth Auditor, and everything that could properly be allowed has been allowed and paid to him."

The committee find that the Committee on Foreign Affairs of the House of Representatives, during the first session of the twenty-ninth Congress, made a report (No. 308) on this claim adverse to the prayer of the memorialist, to which the committee beg leave to refer, and adopt as part of this report; and for the reasons therein set forth ask to be discharged from the further consideration of the subject.

In the House of Representatives.—February 18, 1846.

The Committee on Foreign Affairs, to whom was referred the petition of H. Gold Rogers, have had the same under consideration, and ask leave to report:

That the memorialist was late chargé d'affaires to the court of Sardinia, and has preferred claims against the government of the United States for the sum of four thousand five hundred dollars as outfit, and the further sum of one thousand dollars for the expenses of his journey from Turin to Genoa, relative to the commission and exequation of an American consul; and the further sum of two thousand two hundred and fifty dollars as infit, or to cover the expenses of his return from his station mission, and eight per cent. upon the amount.

The committee have examined a statement of the settlement of Mr. Rogers's accounts, by which it appears that he has been allowed and paid an infit as chargé d'affaires to Sardinia upon the expiration of his

CONGRESS, [SENATE.] REP. COM.
t Session. No. 392.

IN THE SENATE OF THE UNITED STATES.

AUGUST 3, 1854.—Ordered to be printed.

Mr. MASON made the following

REPORT.

Committee on Foreign Relations, to whom was referred the petition of G. Schwarr, late consul of the United States at Vienna, praying com-nsation for diplomatic services, have had the same under consideration, d respectfully report:

ıe petitioner sets forth in his petition that, from the departure of Stiles, United States chargé d'affaires at Vienna, on the 1st of Au- 1849, to the arrival of General Webb, 10th of February, 1850, from the departure of General Webb, on the 8th of May, 1850, to ırrival of Mr. McCurdy, his successor, on the 13th of March, 1851, :acing in all a period of sixteen months and a half, he had charge .e archives of the United States legation, and during that period :acted all the occuring diplomatic business of the legation.

appears, however, from a letter of the Secretary of State, dated 25, 1854, in reply to one of inquiry by the committee, "that Mr. varr was never called upon by this department nor required to ırm duties of a diplomatic nature, and that it does not appear the files of the department that he did perform any such duties. functions were consular, and it was in a consular capacity alone he corresponded with the government of the United States;" and er, that the appointment of Mr. Schwarr was never confirmed by Senate. The committee see no reason for making the compensa- asked for in this case, and ask to be discharged from its further ideration.

IN THE SENATE OF THE UNITED STATES.

AUGUST 3, 1854.—Ordered to be printed.

Mr. MASON made the following

REPORT.

[To accompany Bill S. 478.]

mmittee on Foreign Relations, to whom was referred the petition of ge Frasier, praying remuneration for losses sustained in consequence seizure of his property and the imprisonment of himself by the Mex- authorities in 1840, have had the same under consideration, and tfully report.

petitioner represents that on the 9th of April, 1840, in the town a Buena, (now San Francisco,) where he had resided for seven reviously, engaged in the lumber business, he was seized by the n soldiery, taken to the mission of Dolores, ironed and thrust son; carried thence to Santa Clara; thence to San Juan, and to Monterey, and imprisoned in the same room with sixty or other prisoners, where he was confined for about one month; moved about from one place to another, suffering the greatest ns and hardships, until the 20th July, 1841, when he was re- o liberty. That during his confinement, on one occasion he re- a sabre blow from a soldier, which fractured his skull, destroyed sight, and caused other permanent injury; that from the time of ure to the date of his release was four hundred and sixty-eight nd that for two years afterwards he was unable to procure his od or attend to any business on account of said injuries; that he ad any trial, nor was he ever made acquainted with the charges h he was thus seized and imprisoned.

memorialist further represents that he, with other prisoners, was d through the instrumentality of the minister of the United and that at the time the Mexican government admitted the which had been done to the prisoners, and, as he has been d, made a partial compensation therefor, but no indemnity was r the loss of property sustained by them; that at the time of st he was engaged in business and possessed of property con- of horses, cattle, lumber, tools, house, and furniture, to the value 320; he also estimates his loss of time at $3,744; and the inju- n false imprisonment at $20,000; making an aggregate loss of . The allegations of the memorial are sworn to by the memo- *nd also proven by* the depositions of William Burton and Wi- *ner, of Santa Cruz.*

The committee regard this as another case of gross wrong rage committed by the authorities, so frequently committed citizens, which ought to be arrested. But such matters bel to the executive than to the legislative department of the go The committee therefore ask to be discharged from the furthe ration of this case.

IN THE SENATE OF THE UNITED STATES.

AUGUST 3, 1854.—Ordered to be printed.

Mr. MASON made the following

REPORT.

he Committee on Foreign Relations, to whom was referred the message of the President of the United States of the first day of the present month, in reply to the resolution of the Senate asking information from the President "whether anything has arisen since the date of his message to the House of Representatives of the 15th of March last, concerning our relations with the government of Spain, which, in his opinion, may dispense with the suggestions therein contained touching the propriety of 'provisional measures' by Congress to meet any exigency that may arise in the recess of Congress affecting those relations," have had the same under consideration, and report:

The committee entirely concur with the President in the declaration ntained in his message to the House of Representatives, and reiterated his message to the Senate, that, "in view of the position of the island Cuba, its proximity to our coast, the relations which it must ever ear to our commercial and other interests, it is vain to expect that a ries of unfriendly acts infringing our commercial rights, and the loption of a policy threatening the honor and security of these States, n long consist with peaceful relations;" and are satisfied that whatver measures may be found necessary to ensure future security and pose to the country, (menaced from the quarter indicated,) and to vincate the honor of our flag, will be adopted by Congress. An earnest pe, both on the part of the President and of Congress, that the diffilties with Spain, referred to in the message, would have been adsted before the termination of the present session, by amicable arrangeent, has, it would appear, caused both to forbear, until but a short terval remains between the close of the present and the stated comencement of the next meeting of Congress.

The full reparation that has been demanded by the Executive, with equate guaranties for the future, will alone satisfy the just expectans of the country, and the committee would not hesitate to recomnd the "provisional measures" suggested by the President, to executed by him in the recess of Congress, even under the difficul- of maturing them when the close of the session is already at hand, re the interval to be long before the next meeting of Congress. As t will be, however, but of four months' duration, they have deemed etter on the whole to leave the subject as it is at present—with the ecutive.

Should the occasion unfortunately make it necessary, it must, of rse, occupy the earliest attention of Congress at its next meeting; l, *for the above reasons*, the committee ask to be discharged.

4

10 1
33:1
1853-54
Gov.